

Michigan Supreme Court

MICHIGAN JUDICIAL INSTITUTE

JUVENILE PROBATION OFFICER
AND
CASEWORKER

SELF-INSTRUCTIONAL
MANUAL



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SELF-INSTRUCTIONAL MANUAL

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Table of Contents

History and Philosophy of the Juvenile Division _____	1
The Michigan Judicial System and Role of the Probation Officer _____	5
Chapter 1: Overview of Manual and Definitions _____	11
Chapter 2: Jurisdiction, Transfer, and Venue _____	17
Chapter 3: Custody and Detention _____	20
Chapter 4: Preliminary Inquiries, Diversion, Consent Calendar, and Formal Calendar _____	22
Chapter 5: Petitions and Preliminary Hearings _____	27
Chapter 6: Adjudication, Dispositional Hearings, and Dispositional Options/Orders _____	31
Chapter 7: Review of Juvenile Dispositions _____	37
Chapter 8: Restitution _____	39
Chapter 9: Probation Violations _____	44
Chapter 10: Minor Personal Protection Order (PPO) Proceedings _____	48
Chapter 11: Access to Court Records _____	53
Chapter 12: Ethics for Probation Officers _____	57
Chapter 13: Interviewing, Report Writing, and Testifying in Court _____	67
Chapter 14: Case Management _____	79
Chapter 15: Continuum of Services and Funding _____	104
Chapter 16: Personal Safety and Security _____	112
Chapter 17: Drugs of Choice _____	116
Chapter 18: Juvenile Sexual Offenders, Assessment, and Treatment _____	125
Chapter 19: Gangs _____	141
Chapter 20: Mental Health Issues _____	146

Introduction

Michigan Supreme Court Administrative Order 1985-5 requires a Juvenile [Court] Probation Officer/Caseworker to complete the Michigan Judicial Institute (MJl) Certification Training within two years of employment.

MJl, in conjunction with juvenile [court] judges, administrators, probation officers, and caseworkers developed this self-instructional manual to address core competencies. The manual is updated annually. Substantive and procedural changes that occurred during the previous year are included.

The information presented in the following chapters, along with the review questions at the end of each chapter, will prepare you for the mandatory certification examination.

MJl's development of the original manual (2003), was overseen by the Juvenile Probation Officer/Caseworker Certification Committee:

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HISTORY AND PHILOSOPHY OF JUVENILE COURT

History

Sixteenth and Seventeenth Century Europe

Children were recognized only when they could contribute to the economic good of the family or village. Youths who committed crimes were treated as harshly as adults were. Severe penalties were given for even minor offenses. For example, in seventeenth century England, capital punishment was the penalty for over 200 crimes. Lesser crimes were punished by cutting out the tongue or cutting off a hand or leg.

Eighteenth and Nineteenth Century

Little distinction was made in the criminal culpability of children versus adults. Juveniles as young as age seven could be tried and sentenced in criminal courts.

In 1825, the Society for the Prevention of Juvenile Delinquency founded the New York House of Refuge, the first institution designed to accommodate juvenile delinquents. Many cities and states soon followed this example and set up similar institutions. Progressive era reformers believed the roots of juvenile delinquency were a lack of moral education and standards, and advocated that juvenile institutions include a significant educational and rehabilitative component. For their efforts, the earliest juvenile justice reformers were known as "child savers."

Early Twentieth Century

The child savers' advocacy resulted in the establishment of the first juvenile court in Cook County (Chicago) Illinois. Founded in 1899, and formally recognized in 1909, the juvenile court was formed for the purpose of "presiding over neglected, dependent, and delinquent children." Michigan established a juvenile court by statute in 1907 (1907 PA 323), but it was not implemented until 1919, when Michigan adopted a new constitution. The juvenile court was empowered to intervene for a wide variety of transgressions, from adult crimes to juvenile status offenses. However, the need for legal representation and other rights were not recognized.

Up through the 1920s, biological and psychological theories became the main approaches to delinquency. Inadequate parenting was viewed as a crucial factor, conduct disorders and neuroses. Delinquent behavior was simply a manifestation of an underlying personality disorder. Once the "illness" was discovered, it could be "treated" and the person could then be made "healthy". These schools of thought gave rise to an array of treatment interventions, many of which are still used today.

Mid Twentieth Century

From the early 1930s to the 1960s, theorists insisted that delinquency could only be understood by examining both individual and external factors; that delinquency is a response to poverty, discrimination, inequality, and social demoralization. Peer groups and youth subcultures (gangs) encouraged delinquency because they made sense, either as a means of gaining status or pursuing success.

Much early sociological research on delinquency focused on the environmental issues—low income, poor housing, high population density, widely diverse population areas creating cultural conflicts, urbanization, unemployment, poverty, and divorce – and how youth behavior adapts to the environment. So, the appropriate response to delinquency under this model was to address social (external) causes as well as

personal (internal) causes. The result was increased emphasis on education and recreation programs, housing, family counseling, and economic development.

Late Twentieth Century

From the 1960s through the 1980s, a series of dramatic changes occurred.

In the 1960s, the juvenile court came under attack for failing to meet public expectations. It was argued that the juvenile court offered youth offenders the worst of both worlds: procedural inequalities and harsh treatment. It was also during this time that procedural due process, formerly granted only to adult criminal defendants, was applied to juveniles.

Several seminal cases that directly impact juvenile justice in Michigan were decided by the U.S. Supreme Court during this period, including:

- 1) *Kent v United States*, 383 US 541 (1966) held that, since juveniles charged with criminal offenses potentially suffered the same loss of liberty as their adult counterparts, they should not be denied the constitutional safeguards afforded adults.
- 2) *In re Gault*, 387 US 1 (1967) held that the following rights were constitutionally required:
 - adequate written notice of the charges
 - representation by a lawyer
 - right to remain silent
 - right to confront and cross-examine adverse witnesses
- 3) *In re Winship*, 397 US 385 (1970). The right to an acquittal unless [there is proof] beyond a reasonable doubt as to the juvenile's guilt/delinquency.
- 4) *McKeiver v Pennsylvania*, 403 US 528 (1971). A trial by jury is not constitutionally required in the adjudicative phase of a state juvenile court delinquency proceeding.
- 5) *Breed v Jones*, 421 US 519 (1975). Protection from being tried twice for the same offense (double jeopardy).
- 6) *Fare v Michael C* 442 US 707 (1979). A probation officer's presence during a police interrogation is not the same as a lawyers', so questioning can continue.
- 7) *Schall v Martin*, 467 US 253 (1984). Preventive detention serves a legitimate state objective, and is constitutional.

The 1970 Juvenile Justice and Delinquency Prevention Act addressed deinstitutionalizing status offenders, separation of incarcerated juveniles from adults, delinquency prevention, and development of community-based alternatives.

By the 1980s however, critics opined that the juvenile justice system was soft on crime and that serious juvenile crime was on the rise, so we needed harsher penalties. Even in Michigan, statutory reforms permitted waiver and/or transfer of juvenile cases to adult criminal courts.

During the 1990s, more interest in a “balanced approach” to juvenile justice arose; focusing on community protection, individual accountability, and competency development/treatment. This movement is known as *Balanced and Restorative Justice*.

The Twenty-First Century

The last two decades has seen more changes, including:

- graduated sanctions
- restitution or community service
- increasing victim satisfaction
- services to address substance use, mental health, improved school achievement, strengthened family supports, and community inclusiveness
- addressing the needs of youth dually involved in the juvenile justice and child welfare system, including creation of the family division of the circuit court
- assistance with workforce preparation and development of independent living skills
- the need for youth to have positive and stable connections to responsible adults
- addressing factors leading to handgun-related violence
- encouraging the participation of citizens
- offering viable education, mental health services, and work-related opportunities for those youth returning to their communities (as well as those aging out of foster care), to prevent youth recidivism
- emphasis on evidence-informed practices

The U.S. Supreme Court determining that sentencing a juvenile to life without the possibility of parole constitutes *cruel and unusual* punishment. *Miller v Alabama* 567 US 2455 (2012). See also, *Montgomery v Louisiana*, 577 US ____ (2016), which extended retroactivity to *Miller v Alabama*.

CURRENT JUVENILE JUSTICE PHILOSOPHY

By Honorable Frederick Mulhauser (excerpted)

The juvenile court system was established in response to social and developmental differences between adults and children. As this new philosophy progressed, the treatment of delinquent youth developed three important prongs or pillars.

- 1) The concept of punishment is preserved as a primary pillar, but is often presented as a “consequence” of behavior.
- 2) Restitution where damage to a victim is involved. This may be emotional damage as well as property damage. Restitution and community service may also be learning tools when creatively used.
- 3) Rehabilitation. The most important pillar, rehabilitation, aims at long-lasting behavior change. Elements of the first two pillars are often an integral part of rehabilitation.

Each of us has an opportunity that is given to very few people in our society: The opportunity to help create change. We can make life better and safer for ourselves and those around us, change that may have a positive effect on future generations. So, if you have decided that this job will be your work, then you are to be commended for all the good you will do. You are to be recognized on behalf of those future generations who will benefit from your efforts. Good luck.

Questions for Review:

How has the treatment of juveniles changed over the last few hundred years?

What were the holdings in *Kent v United States*?

What Constitutional rights did *In re Gault* establish?

What were the holdings in *In re Winship*?

What were the holdings in *McKeiver v Pennsylvania*?

What were the holdings in *Schall v Martin*?

What were the holdings in *Fare v Michael C*?

What were the holdings in *Miller v Alabama*? *Montgomery v Louisiana*?

How is your personal philosophy similar to/contrast with that of the Juvenile [Court]?

**The Michigan
Judicial System and Role
of the Probation Officer**

The Michigan Judicial System and Role of the Juvenile Probation Officer

Michigan's "One Court of Justice" was created in 1963 by Article VI, § 1 of the Michigan Constitution. Under this principle, the judicial system consists of one Supreme Court, one court of appeals, one trial court (known as the circuit court) and trial courts of limited jurisdiction. Each court performs a certain role within the judicial system, according to the jurisdiction given to it by the Michigan Constitution or Legislature.

APPELLATE COURTS

The Michigan Supreme Court

The Michigan Supreme Court is the highest court in the state hearing cases appealed to it from the Court of Appeals. The Supreme Court determines what cases it will hear.

The Supreme Court has three primary duties:

- 1) Judicial (hearing/denying appeals)
- 2) General administrative supervision of all courts in the state
- 3) Establishing rules for practice and procedure in all courts of the state (Michigan Court Rules and Administrative Orders)

The Court of Appeals

The Court of Appeals is an "intermediate" appellate court. Generally, decisions from final orders of a circuit court, as well as some probate court and agency orders, may be appealed to the court as a matter of right. Other lower court or tribunal decisions may be appealed only by application for leave to appeal, i.e., with permission of the court.

Court of Claims

Part of the Michigan Court of Appeals: Court of Claims jurisdiction is limited to hearing certain claims against the State of Michigan.

TRIAL COURTS

Circuit Court

The circuit court is the trial court of general jurisdiction in Michigan because of its very broad powers. Generally, circuit court has original jurisdiction in all civil cases involving more than \$25,000; in all criminal cases where the offense involves a felony or certain serious misdemeanors; and family cases.

The circuit court also hears cases appealed from lower courts and from some administrative agencies of state government.

Family Division

The family division is part of the circuit court and has exclusive jurisdiction over all family matters such as divorce, custody, parenting time, support, paternity, adoptions, name changes, juvenile cases, emancipation of minors, parental consent, and personal protection cases. The family division also has ancillary jurisdiction over cases involving guardianships and conservatorships and cases involving the mentally ill or developmentally disabled.

Probate Court

The probate court handles wills, administers estates and trusts, appoints guardians and conservators for adults, and orders treatment for mentally ill and developmentally disabled persons.

District Court

The district court has exclusive jurisdiction of all civil litigation up to \$25,000, and also handles garnishments, eviction cases, land contract forfeitures, small claims, and other cases. For criminal cases, the district court handles all misdemeanors where punishment does not exceed one year in jail; including arraignment, sentence, setting and acceptance of bail, and conducts preliminary examinations in felony cases. Civil infractions are also handled in district court.

Municipal Court

Municipal court civil jurisdiction is limited to \$3,000. Its criminal jurisdiction is similar to district court.

State Court Administrator

The position of State Court Administrator was created by the Article VI, § 3 and is charged with administering the state's trial courts, under the direction of the Supreme Court.

In 1977, the Supreme Court created the Michigan Judicial Institute (MJl). MJl is the education and training arm of the Court.

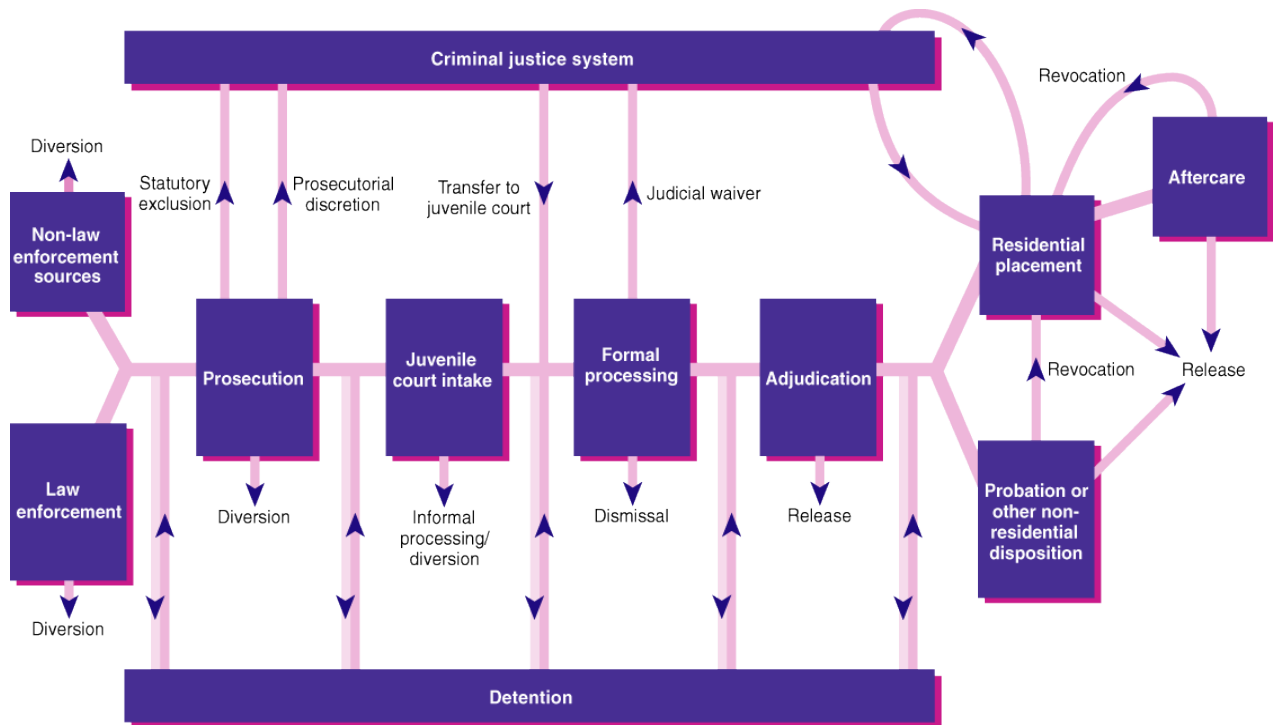
Important Notes:

- 1) Throughout this manual, references to "juvenile court" mean the juvenile division, section, or unit of the family division of the circuit court.
- 2) The focus of this manual is on delinquency/status offenses. It does not address abuse/neglect proceedings.

Overview of the Juvenile Justice System

This diagram on the following page provides a general overview of how a case may flow through the juvenile justice system.¹

¹ Statistics are from "Juvenile Offenders and Victims: A National Report" publication, NCJ 153569, 2011. See <http://www.ojjdp.gov/ojstatbb/default.asp>



Law enforcement diverts many juvenile offenders out of the justice system

At the time a juvenile is apprehended, a decision is made either to send the matter into the justice system or to divert the case, often into alternative programs. Usually, law enforcement makes this decision. Nineteen percent of all juveniles arrested are handled within the police department and then released. Seventy percent of arrested juveniles are referred to juvenile court

Intake

At intake, the decision must be made to dismiss the case, handle the matter informally, or request formal intervention by the juvenile court.

During the processing of a case, a juvenile may be held in a secure detention facility

Juvenile courts may hold delinquents in a secure detention facility, separate from adult offenders, if the court believes it is in the best interest of the community or the child. A detention hearing must be held immediately. Juveniles are detained in one in five (21 percent) of the delinquency cases processed by juvenile courts.

Prosecutors file delinquency cases

A delinquency petition states the allegations, and requests the juvenile court take jurisdiction of the youth and to *adjudicate* (or judge) the youth a delinquent. This language differs from that used in the criminal court system (where an offender is *convicted* and sentenced).

Adjudication

In response to the delinquency petition, an adjudication hearing is scheduled. The adjudication determines that the juvenile comes within the jurisdiction of the court. At the adjudication hearing (trial), witnesses may be called and the facts of the case are presented. Juveniles are adjudicated delinquent in 66 percent of cases petitioned into the juvenile court for criminal law violations.

Between the adjudication decision and the dispositional hearing, an investigation report is often prepared by probation staff

Once a juvenile is adjudicated as being delinquent, a disposition or case services plan, is developed. To prepare this plan, probation officers develop a detailed understanding of the youth and assess available support systems and programs.

The dispositional phase

Disposition is a phase of delinquency proceeding similar to the "sentencing" phase of adult trial. At the disposition hearing, the juvenile probation officer's recommendations are presented to the judge. The prosecutor and the youth may also present their side.

Most cases placed on probation also receive other dispositions

A probation order may include additional requirements and may be for a specified period of time or open-ended. Review hearings are held to monitor the juvenile's progress and to hear reports from probation staff. Sixty percent of adjudicated delinquents are placed on formal probation.

The judge may order the juvenile committed to a residential placement

Residential commitment may be for a specific or indeterminate ordered time period. Twenty-two percent of adjudicated delinquents are placed in residential facilities. In these situations, review hearings are held to assess the progress of the juvenile.

The processing of status offense cases differs from that of delinquency cases

A delinquent offense is an act committed by a juvenile for which an adult could be prosecuted in criminal court. Status offenses are behaviors that are law violations only for juveniles. Status offenses may include running away from home, truancy, incorrigibility, and curfew violations. In many ways, the processing of status offense cases parallels that of delinquency. Nearly half (47 percent) of all status offense cases referred to juvenile are from law enforcement.

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REQUIREMENTS AND FUNCTIONS OF A JUVENILE PROBATION OFFICER/CASEWORKER IN MICHIGAN

Minimum Requirements

Minimum requirements for juvenile probation officers/caseworkers were established by the Michigan Supreme Court in Administrative Order (AO) 1985-5. The AO has been amended over the years. § I.C.1.b.(1.) presently reads, in part:

A probation officer/caseworker, at the time of appointment, shall possess the following qualifications:

1) Education and Experience

b. Minimum Standards

(1) Bachelor's degree in social sciences, education, a related human service field, or a related field that qualifies the person to manage or supervise the delivery of juvenile services, and must complete the Michigan Judicial Institute certification training for juvenile court staff within two years after date of employment.

c. Knowledge, Skills, and Abilities

- (1) Knowledge of the principles and methods concerned with personal and social problem solving.
- (2) Knowledge of factors concerned in delinquency, neglect, and abuse of children.
- (3) Knowledge of family dynamics and the effects of social conditions on family functioning.
- (4) Knowledge of the juvenile justice system and children's services programs.
- (5) Knowledge of the principles, procedures, and techniques of child welfare work.
- (6) Ability to apply social casework methods to child welfare services.
- (7) Ability to develop child welfare programs with community organizations.
- (8) Ability to relate effectively to the public and individuals on their caseload.
- (9) Ability to speak and write effectively.

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Functions Performed by All Probation Officers/Caseworkers

While job descriptions vary, almost every probation officer/caseworker performs similar functions, including:

Administrative

- Court appearances
- Office activities and field visits
- Maintaining accurate and up-to-date case records
- Preparing and submitting reports
- Gathering and evaluating data
- Following court policy, and responsibility for monitoring compliance

Casework and Interviewing

- Interviews, clarifying problems; suggesting constructive methods
- Consulting with supervisor when necessary
- Collaborating with public and private community agencies
- Referring probationers to community agencies
- Contacting collateral sources of information
- Establishing professional relationship with probationers

Enforcement

- Enforcing the court's orders
- Documenting facts and testifying in court compliance
- Petitioning the court to address alleged probation violations
- Requesting the court modify its orders, when appropriate

Investigations

- Conducting investigations, preparing appropriate reports

Public Relations

- Representing the judges, chief probation officer, and other court officials in public
- Addressing community groups, participating in conferences, panels, etc.
- Acting as a consultant in the social planning of the community

Additional Assignments

Performing such other duties as may be directed by the chief judge, court administrator, or chief probation officer.

Questions for Review:

What does “One Court of Justice” mean?

What are the three primary functions of the Michigan Supreme Court?

What is the role of the Court of Appeals?

What is the jurisdiction of the circuit court?

What is the jurisdiction of the family division of the circuit court?

What are the similarities between all juvenile court systems?

What are the requirements to become a juvenile probation officer/caseworker in Michigan?

What are the common functions performed by almost all juvenile probation officer/caseworkers?

Chapter 1: Overview of Manual and Definitions

MANUAL CONTENTS

Chapters 1-11 of this manual explain the laws, court rules, and procedures used in juvenile delinquency cases and personal protection order cases involving a minor. Chapters 12-20 focus on practical issues.

IMPORTANT DEFINITIONS—In Alphabetical Order (See MCR 3.903.)

Adjudication: The determination by the court that the juvenile has committed the offense. It is similar to a finding of guilt in an adult proceeding.

Case: Means an action initiated in the family division of circuit court by:

- (a) an original complaint, petition, or citation
- (b) acceptance of transfer of an original action from another court or tribunal; or
- (c) filing or registration of a foreign judgment or order

Competency:

“A juvenile, 10 years of age or older, is presumed competent to proceed unless the issue of competency is raised by a party. A juvenile less than 10 years of age is presumed incompetent to proceed.” MCL 330.2062(1), MCL 712A.18n(1).

For more information on Juvenile Competency, see Chapter 4.

Confidential File: That part of a file made confidential by statute or court rule, and includes:

- (i) diversion records. MCL 722.821;
- (ii) the separate statement about known victims of juvenile offenses as required by the Crime Victim’s Rights Act. MCL 780.751;
- (iii) the testimony taken during a closed proceeding. MCR 3.925(A)(2); MCL 712A.17(7);
- (iv) dispositional reports made pursuant to MCR 3.943(C)(3) and 3.973(E)(4);
- (v) biometric material required to be maintained. MCL 28.243;
- (vi) reports of sexually motivated crimes. MCL 28.247;
- (vii) test results of those charged with certain sexual offenses or substance abuse offenses. MCL 333.5129; and
- (viii) The “Social File”.*

Petitions that the court has not authorized for filing do not fall within the definition of “records” * and are therefore “confidential files.”

*Contents of the **Social File:** Includes materials such as:

- (i) youth and family record fact sheet
- (ii) social study
- (iii) reports (such as dispositional, investigative, laboratory, medical, observation, psychological, psychiatric, progress, treatment, school and police reports)
- (iv) Department of Human Services (DHS) records
- (v) correspondence
- (vi) victim statements

No provision of the Juvenile Code makes a juvenile probation file confidential. A juvenile probation officer's file may contain case notes and copies of records whose confidentiality is protected by other laws. MCL 791.229 addresses a "probation officer's privilege," but that applies to Department of Corrections (DOC) probation officers.

Consent Calendar

If it appears "that protective and supportive action by the court will serve the best interest of the juvenile and the public," the court may proceed on the consent calendar without authorizing a petition to be filed. No case may be placed on the consent calendar unless the juvenile and the parent, guardian, or legal custodian and the prosecutor, agree to have the case placed on the consent calendar. A court may not consider a case on the consent calendar that includes an offense listed as an assaultive crime by the Juvenile Diversion Act, MCL 722.822(a).

The court is required to enter a plea in a consent calendar case when the case involves an alleged violation of the Michigan Vehicle Code. MCL 712A.2b(d); MCR 3.932(C).

County Juvenile Agency: Is defined in the "County Juvenile Act," to provide services to juveniles "within or likely to come within" the family division's jurisdiction of criminal offenses by juveniles and the criminal division's jurisdiction over those "automatically waived." MCL 45.621; MCL 803.302(a).

Disposition: Means the judgment of the court following adjudication. It is similar to "sentencing" in an adult proceeding. The disposition of a juvenile who has committed an offense that would be a criminal offense if committed by an adult, is governed by the Juvenile Code. MCL 712A.18.

The court may enter one or more dispositions concerning a juvenile, including:

- 1) a warning and dismissal
- 2) probation
- 3) commitment to, or placement in, a public or private institution
- 4) placement in a juvenile boot camp
- 5) a civil fine
- 6) ordering a parent to participate in treatment. MCL 712A.18(1).

"The court shall ensure that each minor coming within the jurisdiction of the court shall:

- (1) receive the care, guidance, and control, preferably in the minor's own home, that is conducive to the minor's welfare and the best interests of the public; and
 - (2) when removed from parental control, be placed in care as nearly as possible equivalent to the care that the minor's parents should have given the minor."
- MCR 3.902(B)(1)-(2).

Diversion: Means the placement that occurs when a formally recorded apprehension is made by a law enforcement agency for an act by a minor which, if a petition were filed with the court, would bring the minor within the formal jurisdiction of the court under MCL 712A.2(a). Diversion may not be used for any offense listed as an assaultive crime by the Juvenile Diversion Act, MCL 722.822(a).

Instead of a petition being filed or authorized, however, either of the following occurs:

- (i) the minor is released into the custody of his or her parent, guardian, or custodian and the investigation is discontinued, or

- (ii) the minor and the minor's parent, guardian, or custodian agree to work with a person, organization, or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation. MCL 722.822(c)(i)–(ii); MCL 722.823(1)(a)–(b).

Firearm: Means any weapon from which a dangerous projectile may be propelled using explosives, gas, or air as a means of propulsion, except BB's less than .177 caliber. MCL 712A.18g(3); MCR 3.943(E)(7)(c).

Formal Calendar: Means judicial proceedings other than a delinquency proceeding on the consent calendar, a preliminary inquiry, or a preliminary hearing. If the case is placed on the formal calendar, the court will conduct a formal adjudicative hearing, and, if the juvenile is found responsible for the offense, a dispositional hearing. A court may "take a plea of admission or no contest under advisement" and later dismiss the case if the juvenile complies with the court's directives. The court may transfer a case from the formal calendar to the consent calendar at any time before disposition. MCR 3.932(C).

Guardian: Means a person appointed as guardian of a child by a court (in Michigan or another state).

Juvenile: Means a minor alleged or found to be within the jurisdiction of the court for having committed an offense.

Juvenile Code: Means Public Act 54 of 1944, MCL 712A.1., as amended.

Legal Custodian: Means an adult who has been given legal custody of a minor by order of a court. It also includes the term Indian custodian, which means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of such child. MCR 3.002(7).

Minor: Means a person under the age of 18, and may include a person of age 18 or older concerning whom cases are commenced in the juvenile court and over whom the juvenile court has continuing jurisdiction pursuant to MCL 712A.2.

Offense by a Juvenile: Is an act that violates a criminal statute or ordinance or a status offense.

Officer: Means a government official with the power to arrest or any other person designated by the court to apprehend, detain, or place a minor.

Parent: Means the mother, the father, or both. It also means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. MCR 3.002(20).

Party: In a delinquency proceeding, means the petitioner and the juvenile.

Petition Authorized to be Filed: Refers to written permission by the court allowing a petition to be filed containing allegations against the juvenile.

Preliminary Hearing: If, after a preliminary inquiry, the juvenile is not released, the juvenile and his or her parents, guardian, or custodian must immediately be brought before the court for a preliminary hearing. At the conclusion of the preliminary hearing, the court will either authorize the petition to be filed or will dismiss the petition and release the juvenile.

Preliminary Inquiry: Means an informal review by the court to determine appropriate action on a petition.

Public ward: A youth at least 12 years of age when committed by the family division for care by a youth agency. MCL 803.302(c).

Status offender: Refers to juveniles who are alleged to fall within the exclusive jurisdiction of the family division. MCL 712A.2(a)(2)-(4). Status offenders are juveniles under 17 years of age who are:

Runaways: The juvenile has deserted his or her home without sufficient cause and the court finds on the record that the juvenile has been placed or refused alternative placement, or the juvenile and the juvenile's parent, guardian, or custodian have exhausted or refused family counseling.

Incorrigibles: The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

Truants: One who is willfully and repeatedly absent from school or other learning program, repeatedly violates rules/regulations of the school or other learning program, and the court finds that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems and counseling and alternative agency help has been sought.

Providing Services to Disabled and Limited English Proficient Individuals

Interpreter Services: Courts have long been required to provide interpreter services for deaf-blind individuals. MCL 393.501.

Americans with Disabilities Act (ADA): *ADA prohibits discrimination against qualified individuals.* A "disability" is a physical, mental, or communication condition that substantially limits one or more of the major life activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working. If you receive a request for an ADA accommodation, or notice someone that you believe may need an accommodation, immediately contact your court's ADA coordinator. All courts are required to have an ADA coordinator.

Providing Services to Limited English Proficiency (LEP) Individuals

Michigan court rules require courts to provide court-appointed foreign language interpreters for limited English proficient (LEP) persons to support access to justice. The court rule requires the court "to provide an interpreter for a party or witness if the court determines one is needed for either the party or the witness to meaningfully participate." MCR 1.111. This includes providing LEP services to the juvenile, parent, guardian, or

anyone else who the court may need to contact regarding the case, both inside and outside the courtroom; including probation appointments, home calls, and collateral contacts. If you receive a request for an LEP accommodation, or notice someone that you believe may need an accommodation, immediately contact your court's LEP coordinator. All courts are required to have an LEP coordinator.

THE TWO TYPES OF NONCRIMINAL CASES INVOLVING JUVENILES:

- 1. DELINQUENCY AND STATUS OFFENSES**
- 2. MINOR PERSONAL PROTECTION ORDERS**

1. Delinquency and Status Offense Cases

Delinquency cases: Involve juveniles under age 17 charged with a violation of a criminal law or ordinance, or with a status offense. If the juvenile is found responsible for the offense, the court may order a juvenile disposition.

Procedural Options in Delinquency Cases

The family division has several options when a petition is filed in a delinquency proceeding:

- deny or dismiss the petition
- direct that the parent, guardian, or legal custodian and juvenile appear so that the matter can be handled through further informal inquiry
- refer the matter to a public or private agency without authorizing a petition to be filed
- proceed on the consent calendar, or
- authorizing a petition and proceeding on the formal calendar

Status Offense cases: Are acts that are violations of law only when committed by a minor (running away from home without sufficient cause, incorrigibility, and truancy). Status offenses are governed wholly by the Juvenile Code. Michigan Court Rules include status offenders within the definition of "delinquency proceeding," however there are important differences between the two. For example, a status offender may only be placed in a secure (locked) facility in limited circumstances.

2. Minor Personal Protection Order Cases

Personal Protection Orders (PPOs): Forbid abusive conduct and stalking, including cyber-stalking, by minors ten years old or older. A PPO may not be issued if the people involved have a parent-child relationship and the child is an unemancipated minor. In such cases, a delinquency or child protective proceeding may be instituted. For more in-depth information on minor Personal Protection Orders, see Chapter 10.

THE THREE TYPES OF CASES INVOLVING JUVENILES CHARGED WITH CRIMINAL OFFENSES:

- 1. DESIGNATED CASES**
- 2. "AUTOMATIC" WAIVER CASES**
- 3. "TRADITIONAL" WAIVER CASES**

Cases less likely to be encountered by juvenile probation officers/caseworkers are:

1) Designated Cases

In a "specified juvenile violation," the prosecuting attorney may designate the case for criminal trial. In a "nonspecified juvenile violation," the judge must decide whether to designate the case for criminal trial. After conviction, the court may impose an adult sentence, delay imposition of an adult sentence, or order a juvenile disposition.

2) “Automatic” Waiver Cases

An “automatic” waiver allows the prosecutor to file the case in the criminal division rather than in the family division. The trial is a criminal case. Following conviction, the juvenile may be sentenced as an adult or placed on probation and committed to public wardship. For some “specified juvenile violations,” an adult sentence is mandatory.

3) “Traditional” Waiver Cases

When a juvenile is charged with a felony, the prosecutor may file a motion asking the family division to allow the juvenile to be tried as an adult in the criminal division. If the family division waives jurisdiction over the juvenile, a criminal trial takes place. Following conviction, the juvenile must be sentenced as an adult.

Per *People v Skinner*___Mich App___(2015) in the absence of a waiver, a *jury* must make findings on whether a juvenile homicide offender may be sentenced to life in prison without the possibility of parole under MCL 769.25.

Questions for Review:

What do the following terms mean?

Adjudication

Case

Competency

Confidential File

Consent Calendar

County juvenile agency

Disposition

Diversion

Firearm

Formal Calendar

Guardian

Juvenile

Juvenile Code

Legal Custodian

Minor

Offense by a Juvenile

Officer

Parent

Party

Petition Authorized to be Filed

Preliminary Hearing

Preliminary Inquiry

Public ward

Social File

What is a status offense?

What are some types of status offenses?

What is a PPO?

What is a Designated Case?

What is an Automatic Waiver?

What is a Traditional Waiver?

What are ADA and LEP services?

Chapter 2: Jurisdiction, Transfer, and Venue

JURISDICTION

Two Types of Jurisdiction

Subject Matter Jurisdiction:

Is a court's authority to exercise judicial power over a particular class of cases, for example, delinquency cases.

Personal Jurisdiction:

Is the court's authority to exercise judicial power over a particular individual.

Jurisdiction of Juvenile Delinquency Cases

The family division of the circuit court has "exclusive original jurisdiction" over juveniles. MCL 712A.2(a)(1). If a juvenile reaches the age of 17 after the filing of the petition, the court's jurisdiction shall continue beyond the juvenile's 17th birthday and the court may hear and dispose of the petition under the Juvenile Code. MCL 712A.11(4).

Jurisdiction over Juveniles Charged With Criminal Violations of the Michigan Vehicle Code

The family division has "exclusive original jurisdiction . . . in cases concerning a juvenile less than 17 years of age" who is charged with violating any municipal ordinance or state or federal law. MCL 712A.2(a)(1). An "offense by a juvenile" includes an act that violates a criminal statute or a criminal ordinance.

Jurisdiction of Contempt Cases

The family division has the power to punish for contempt of court, any person who willfully violates, neglects, or refuses to obey an order of the court, and to enforce reimbursement orders, and orders assessing attorney costs, through its contempt powers. MCL 600.1701.; MCL 712A.26; MCL 712A.18(2) and (3); MCL 712A.17c(8); MCL 712A.18(5); MCR 3.915(E). This includes a parent who has interfered with the court's function. See *In re Contempt of Dorsey*, ___ Mich App ___, ___ (2014).

TRANSFER OF JURISDICTION

Transfer to County of Residence

Under MCR 3.926(B)(1)-(3), when a minor is brought before the family division in a court in a county where they do not reside, the court may, before trial, transfer the case to the court in the county where the child does reside.

Bifurcated Proceeding

If the judges in each county agree, adjudication may occur in the county where the offense occurred, and disposition may occur in the county where the case is being transferred. MCR 3.926(E).

Transfer of Records

The transferring court is responsible for sending the receiving court all case records. MCR 3.926(F).

Handling Cases When Juvenile Is Subject to Prior or Continuing Jurisdiction of Another Court in Michigan

Where a child is subject to a prior or continuing order of any other court of this state, notice must be filed with the appropriate official of any prior court. MCR 3.205.

Courtesy Supervision

To transfer a case to another jurisdiction, request courtesy supervision from the receiving county, include as much information as possible. If the request is granted, copies of all pertinent information should be forwarded to the receiving court, including court orders, court reports, investigation materials, school records, and psychological evaluations. Further contact should be made with the receiving court to provide background information about the juvenile and family history. The victim should be notified and the supervising county should have the victim's information.

Jurisdiction Over Indian Children

Tribes set their own eligibility requirements, and there is no specific degree of Indian ancestry that qualifies a child for tribal membership.

The Michigan Indian Family Preservation Act (MIFPA), MCL 712B.1, sets requirements and procedures to ensure compliance with the Indian Child Welfare Act (ICWA), 25 USC 1901. MIFPA establishes procedures that are applicable to Indian children. Essentially, if a child is known to be a member of a tribe, or is thought to be a member of, or eligible for membership in a tribe, notice must be given to the tribe and others. The tribe must be given the opportunity to take jurisdiction of the child. Also, see MCR 3.002(12).

Handling Cases Under the Interstate Compact on Juveniles (ICOJ)

All 50 states are parties to the ICOJ. MCL 3.692. The ICOJ allows for interstate placement and supervision of juveniles; the return of runaways, absconders, and escapees; and the "extradition" of juveniles to and from Michigan to face criminal charges.

For complete ICOJ rules, see:

<http://www.juvenilecompact.org/LinkClick.aspx?fileticket=hP5YtZN5GWU%3d>

Specific sections of interest to probation officers and caseworkers are:

- Section 400 - Transfer of Supervision

- Section 500 - Supervision in Receiving State

- Section 600 - Return of Juveniles

In Michigan, all requests for services in cases involving other states must be made to the DHS, Office of Children's Services, and Interstate Services Unit. See http://www.michigan.gov/documents/FIA-CompactChildren_10014_7.pdf

Michigan's Uniform Criminal Extradition Act (UCEA) MCL 780.1

This act applies to juveniles charged with delinquent behavior in another state.

In re Boynton, 302 Mich App 632, 635-636, 640 (2013) held that the trial court properly permitted the 15 year old respondent's extradition to the state of Georgia to face accusations of delinquent behavior allegedly committed in that state when he was 12 years old.

Jurisdiction and Authority Over Adults

The court has jurisdiction over adults and may make orders affecting adults as necessary for the physical, mental, or moral well-being of a particular juvenile or juveniles under its jurisdiction. MCL 712A.6.

In the event a parent interferes with the court's judicial function he or she may be punished for contempt. See *In re Contempt of Dorsey*, ___ Mich App ___, ___ (2014).

Questions for Review:

What is "subject matter" jurisdiction? "Personal" jurisdiction?

Over what offenses does the family division have jurisdiction?

What procedures must the court follow if it has information that a juvenile may be an "Indian child"?

What is the ICOJ?

Does the court have jurisdiction over adults?

Chapter 3: Custody and Detention

OBTAINING CUSTODY OF A JUVENILE WITHOUT A FAMILY DIVISION ORDER

Obligations of Officer or Agent Immediately After a Juvenile Is Taken Into Custody

A police officer, sheriff, deputy sheriff, county agent, or probation officer may, without a court order, take into custody any juvenile who is found violating any law or ordinance, whose surroundings endanger the juvenile's health, morals, or welfare, or is violating or has violated a PPO or valid foreign protection order.

The officer or agent must immediately attempt to notify the juvenile's parent or parents, guardian, or legal custodian (including Indian custodian). MCL 712A.14(1).

While awaiting arrival of the parent or parents, guardian, or custodian, the juvenile must not be held in a detention facility unless the juvenile can be isolated from adult prisoners. MCR 3.933(D).

When a juvenile is apprehended without a court order, the officer may warn and release the juvenile, refer the juvenile to a diversion program, or seek authorization from the prosecuting attorney to file a complaint and warrant charging the juvenile with an offense (see MCL 764.1f).

If the prosecutor does not choose/allow a complaint to be filed, the officer may: issue a citation or appearance ticket and release the juvenile; accept a written promise of the parent, guardian, or legal custodian to bring the juvenile to court; or take the juvenile into custody and submit a petition.

DETENTION

Factors to Consider When Deciding Whether Juvenile Should Be Released From Custody

The officer should take the juvenile into custody and submit a petition if it is in the best interest of the juvenile or the public and a parent, guardian, or legal custodian cannot be located or has refused to take custody of the child (MCR 3.933(A)(3); MCL 712A.14(2)).

The juvenile and his or her parents, guardian, or custodian must immediately be brought before the court for a preliminary hearing. At the conclusion of the preliminary hearing, the court should either authorize filing of the petition or dismiss the petition and release the juvenile.

Court Contacts

"The court must designate a judge, referee, or other person who may be contacted by the officer taking a juvenile into custody when the court is not open. . ." MCR 3.934(B)(2).

Note: Court intake workers or detention personnel often make the initial custody determination. *You should consult your court administrator and/or chief judge regarding the procedure your court uses.*

Places of Detention for Alleged Juvenile Delinquents

A juvenile must be detained in the *least restrictive* environment that will meet the needs of the juvenile and the public, including placement in a nonsecure facility or foster home.

A juvenile under the age of 17 shall not be confined, transported with, or compelled or permitted to associate or mingle with, criminal or dissolute persons. MCL 712A.16(1).

Except for status offenders, a juvenile 15 years or older may be placed in a jail or other place of detention for adults, but in a room or ward separate from, and out of sight and sound of, adults. MCL 764.27a(2).

A youth under 16 years of age while under arrest, confinement, or conviction for any crime must not be:

- confined with any adult;
- permitted in any courtroom during the trial of adults; or
- be transported with adults. MCL 750.139(1).

Any person who violates these provisions is guilty of a misdemeanor. MCL 750.139(3).

Places of Detention for Alleged Status Offenders

A youth in custody for being an alleged status offender must not be detained in any secure detention facility for juvenile offenders *unless* the court finds that youth willfully violated a court order and that there is no less restrictive alternative. MCL 712A.15(3).

Requirements of the Crime Victim's Rights Act

The law enforcement agency must provide a victim with an opportunity to request notice of the juvenile's arrest and subsequent release, or both. MCL 780.782.

If a juvenile is placed in a juvenile facility following the preliminary hearing the prosecuting attorney *or court* must provide the victim with the telephone number of the juvenile facility. The victim may contact the facility to determine whether the juvenile has been released. Upon the victim's request, the law enforcement agency must notify them of the juvenile's arrest, pretrial release, or both.

Questions for Review

What are the procedures for taking a juvenile into custody?

What factors are to be considered in determining to detain or release a juvenile?

Where can a juvenile who has allegedly committed a delinquent act be detained?

What are the special requirements for an Indian child?

Where can a juvenile who has allegedly committed a status offense be detained?

What rights do victims have regarding notice of a juvenile's arrest and/or detention?

4: Preliminary Inquiries, Diversion, Consent Calendar, and Formal Calendar

Chapter 4: Preliminary Inquiries, Diversion, Consent Calendar, Formal Calendar

Preliminary Inquiries

At a preliminary inquiry, the court conducts an informal review to determine action on a petition. Preliminary inquiries may be based on complaints signed and submitted by parents of a juvenile, school officials, or police officers, rather than a petition signed and filed by the prosecuting attorney.

The court may assign an attorney or nonattorney referee to conduct a preliminary inquiry. MCR 3.913(A)(1) & (2); MCL 712A.10.

A preliminary inquiry is not a proceeding on the formal calendar, so the judge or referee is merely required to examine the petition and make his or her determination.

The court may:

- (1) deny authorization of the petition;
- (2) refer the matter to a public or private agency;
- (3) hold further informal inquiry on the petition;
- (4) proceed on the consent calendar; or
- (5) place the matter on the formal calendar. MCR 3.932(A).

DIVERSION

Diversion occurs in lieu of the court assuming formal jurisdiction. MCL 712A.2(a).

Instead of a petition being filed and/or authorized, either of the following occurs:

- (i) the minor is released into the custody of his or her parent, guardian, or custodian, or
- (ii) the minor and the minor's parent, guardian, or custodian agree to work with a person or agency that will assist them. MCL 722.822(c)(i)–(ii); MCL 722.823(1)(a)–(b).

The Juvenile Diversion Act may be used prior to the filing of a petition or before the court authorizes a petition. MCL 722.823(1); MCR 3.932(A)(2); MCR 3.935(B)(3). Once a petition is authorized, diversion may no longer be used.

Offenses Precluding the Use of Diversion

Juveniles accused of, or charged with, “assaultive offenses” shall not be diverted.²

Factors to Determine Whether to Divert a Juvenile

Before a minor is diverted, all of the following factors must be evaluated:

- (a) nature of alleged offense
- (b) minor's age
- (c) nature of the problem that led to the alleged offense
- (d) minor's character and conduct

² (See MCL 750.82 - 84; MCL 750.86 - 89; MCL 750.316-317; MCL 750.321; MCL 750.349; MCL 750.349a; MCL 750.350; MCL 750.397; MCL 750.520b - 520e; MCL 750.520g; MCL 750.529; MCL 750.529a; and MCL 750.530; MCL 722.823(3); MCL 722.822(a).)

- (e) minor's behavior in school, family, and group settings
- (f) any prior diversion decisions made concerning the minor and the nature of the minor's compliance with the diversion agreement. MCL 722.824(a)–(f).

Diversion Conference

If the decision is made to divert the minor, a conference must first be held with the minor and their parent, guardian, or custodian to consider alternatives. MCL 722.825(1).

The law enforcement official or court intake worker—depending upon who is holding the conference—must notify the minor and the minor's parent, guardian, or custodian of the time and place of the proposed conference and that:

- (a) participation is voluntary
- (b) an attorney may accompany them
- (c) alternative referral programs available, and the criteria utilized to determine whether to file a petition with the court or to dispose of the petition with a referral
- (d) if diversion is agreed to and the minor complies, a petition cannot be filed with the court; or if a petition has been filed, the petition cannot be authorized

See MCL 722.825(1)(a)–(d).

The diversion conference may not be held until after any questioning has been completed or after an investigation has been made. Mention of, or promises concerning diversion shall not be made by a law enforcement official or court intake worker during any questioning of the minor. Information divulged by the minor during the conference or after the diversion is agreed to, but before a petition is filed with or authorized by the court, cannot be used against the minor. MCL 722.825(2).

Diversion Agreement

Any agreement that imposes conditions on the minor must be in writing, dated, and signed by the law enforcement official or court intake worker, the minor, and the minor's parent, guardian, or custodian. MCL 722.825(3).

If a conference is held but an agreement is not reached, a petition may be filed within 30 days, and a petition may be authorized. MCL 722.825(4).

Required Information

When diversion occurs, the following information must be filed with the family division in the county in which the minor resides or is found:

- (a) The minor's name, address, and date of birth.
- (b) The act or offense for which the minor was apprehended.
- (c) The date and place of the act or offense for which the minor was apprehended.
- (d) The diversion decision made, whether referred or released.
- (e) The nature of the minor's compliance with the diversion agreement.

See MCL 722.826(1)(a)–(e).

Revocation of Diversion Agreement

If the minor fails to comply with the terms of the diversion agreement and the referral plan, the agreement may be revoked. If the agreement is revoked, a petition may be filed with the court and a petition may be authorized by the court. MCL 722.825(5).

CONSENT CALENDAR

Consent Calendar

The “consent calendar” allows for informal handling of cases. No case may be placed on the consent calendar unless the juvenile and their parent, guardian, or legal custodian and the prosecutor agree to have the case placed on the consent calendar. A court may not consider a case on the consent calendar that includes an offense listed as an assaultive crime by the Juvenile Diversion Act. MCL 722.822(a).

When a case is placed on the consent calendar, the juvenile waives certain rights, including:

- formal notice of charges
- appointment of an attorney at public expense
- a jury trial
- a trial before a judge
- the presumption of innocence
- the presentation of proof beyond a reasonable doubt
- testifying on their own behalf
- the privilege against self-incrimination (and the right to remain silent)
- presenting witnesses
- to confront and cross-examine the juvenile’s accusers
- use of the subpoena power of the court to compel attendance of witnesses under the consent calendar.

Consent Calendar Procedures

- 1) No formal notice is required, except that required by the CVRA.
- 2) No formal plea may be entered and the court must not adjudicate the minor.³
- 3) A consent calendar conference must be held with the juvenile, parent, guardian, or legal custodian to discuss the allegations. The victim may or may not be present.
- 4) The court may issue a case plan.
- 5) A juvenile may *not* be removed from the custody of their parent, guardian, or legal custodian.
- 6) No order of disposition may be entered.
- 7) Upon successful completion of the case plan, the court shall close the case and may destroy all records.
- 8) If it appears to the court at any time that the proceeding on the consent calendar is not in the best interest of either the juvenile or the public, the court may, without hearing, transfer the case from the consent calendar to the formal calendar on the original charge(s). Statements made by the juvenile during the time on the consent calendar may not be used against the juvenile at trial on the formal calendar on the same charge. MCR 3.932(C).

FORMAL CALENDAR

If it appears to the court that formal court action is in the best interest of the juvenile and the public, the Formal Calendar allows the court to authorize a petition to be filed. At any time before disposition, the court may transfer a matter to the consent calendar. MCR 3.932(C).

³ However, the court is required to enter a plea when the case involves an alleged violation of the Michigan Vehicle Code. MCR 3.932(C).

Competency

A juvenile 10 years of age or older is presumed competent. A juvenile less than 10 years of age is presumed incompetent.” MCL 330.2062(1) and MCL 712A.18n(1).

If a juvenile is the subject of a delinquency petition or is charged with a status offense under MCL 712A.2(a)(2)-(4), the court may order a competency evaluation to determine whether the juvenile is competent to proceed. MCL 712A.18r(4).

A competency evaluation is to be conducted by a qualified juvenile forensic mental health examiner, who is required to provide the court with an opinion within 30 days as to whether the juvenile is competent to proceed.” MCL 712A.18o(1), MCL 330.2064(1), MCL 330.2066(5)-(6), and MCL 712A.18p(5)-(6).

The court must hold a competency hearing within 30 days after the examiner’s report is filed. MCL 330.2068(1) and MCL 712A.18q(1).

If the court finds that the juvenile “is incompetent to proceed and that there is a substantial probability that the juvenile will remain incompetent to proceed for the foreseeable future or within the period of [a] restoration order, the charges must be dismissed and the court “may determine custody of the juvenile. MCL 330.2068(2) and MCL 712A.18q(2).

If the juvenile is determined to be incompetent to proceed, “but the court finds that the juvenile may be restored to competency in the foreseeable future then restoration services are to be provided. MCL 330.2074(1), MCL 712A.18s(1), MCL 330.2074(2)-(4), and MCL 712A.18s(2)-(4).

Drug Treatment/Specialty Courts

Family divisions are authorized to institute or adopt a drug treatment court for juveniles. MCL 600.1062(2). A drug treatment court is “. . . a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol.” MCL 600.1060(c). These courts are specially designed to reduce recidivism and substance abuse among nonviolent, substance-abusing offenders and to increase the offenders' likelihood of successful habilitation through early, continuous, and intense judicially-supervised treatment, mandatory periodic drug testing, and use of appropriate sanctions.

Drug treatment courts evolved to address the revolving-door cycle in which drug and alcohol offenders moved in and out of the justice system. Drug treatment courts treat addiction as a complex disease and provide a comprehensive, sustained continuum of therapeutic interventions, treatment, and other services to increase a participant's periods of abstinence and reduce the rate of relapse, rearrest, and incarceration.

Michigan has been a pioneer in the drug treatment/specialty court movement. As of 2014, there were over 80 drug treatment courts in Michigan, 15 of which were juvenile drug courts.

Questions for Review:

What is a preliminary inquiry?

When may a preliminary inquiry be conducted?

Who can conduct a preliminary inquiry?

Why must the victim be considered?

What factors determine whether a juvenile should be diverted?

What is a diversion conference?

What is the consent calendar?

What is the formal calendar?

Who is competent to stand trial?

What happens if the juvenile's competency is in question?

Are drug offenders eligible for diversion?

What is a drug treatment/specialty court?

Chapter 5: Petitions and Preliminary Hearings

PETITIONS

Petition to Commence Cases in the Family Division

A petition is a complaint or other written accusation that a juvenile has committed an offense.

Only the prosecuting attorney may file a petition in for criminal matters. MCL 712A.11(2); MCR 3.914(B)(1). Any person may provide information to the court indicating that a juvenile has committed a status offense. MCL 712A.11(1).

Required Contents of Petition

A petition must set forth the facts and include identifying information about the juvenile (name, address, and date of birth, if known), his/her parents, guardian, legal custodian, the alleged offense, membership or eligibility for membership in an Indian tribe, any prior court involvement, and the action requested. MCL 712A.11(3).

The petition has two principal functions:

- 1) to allow a court to determine if a statutory basis for jurisdiction exists, and
- 2) to provide the juvenile notice of the charges against him or her.

Preliminary Hearing

A preliminary hearing is the formal review of the petition where the judge or referee considers authorizing the petition and placing the case on the formal calendar.

In re Hatcher, 443 Mich 426 (1993). The Michigan Rules of Evidence apply.

The court must hold a preliminary hearing if a juvenile is in custody or the petition requests detention. MCL 712A.14(2); MCR 3.932(A).

Authorizing a Petition to be Filed

Before the court may acquire formal jurisdiction of a case, the court must authorize a petition to be filed. MCL 712A.11(1) - (2). A "petition authorized to be filed" refers to written permission by the court to file a petition containing allegations against the juvenile. This is the point where the juvenile's court record begins.

Right to Legal Counsel

In *In re Gault*, 387 US 1, 41 (1967), the United States Supreme Court established a juvenile's right to counsel in delinquency cases:

The court must appoint an attorney for a juvenile if one or more of the following circumstances is present:

- (a) The child's parent refuses or fails to appear and participate in the case.
- (b) The child's parent is the complainant or victim.
- (c) The child and those responsible for his or her support are financially unable to employ an attorney and the child does not waive his or her right to an attorney. MCL 712A.17c(2)(a)-(e).
- (d) Those responsible for the child's support refuse or neglect to employ an attorney for the child and the child does not waive his or her right to an attorney.
- (e) The court determines that the best interests of the child or the public require appointment.

Constitutional Rights

Juveniles *do not* have a constitutional right to be treated differently than adult offenders when they are charged with committing a criminal offense. However, case law has established various rights for juveniles. See *People v Hana*, 443 Mich 202, 220 (1993): Holding that the constitutional protections extended to juvenile proceedings in cases such as Kent and Gault apply in full force to the adjudicative phase of a juvenile waiver hearing; *People v Abraham* 256 Mich App 265 (2003), holding that the statute allowing charging, trying, and sentencing juvenile as an adult is constitutional; *People v Conat*, 238 Mich App 134, 159 (1999), holding that the statute requiring the circuit court to sentence certain juvenile offenders as adults is constitutional; and *People v Parrish*, 216 Mich App 178, 182 (1996), holding that the court shall not impose a sentence in which the maximum penalty is life imprisonment with a minimum for a term of years included in the same sentence.

Appointment of a Guardian Ad Litem (GAL)

In addition to appointment of an attorney, the court may appoint a guardian ad litem (a “trusted advisor” who does not need to be an attorney) to promote and protect the interests the youth.

Time Requirements for Preliminary Hearings

A preliminary hearing must commence no later than 24 hours after the juvenile has been taken into custody, excluding Sundays and holidays, or the juvenile must be released. MCR 3.935(A)(1).

RELEASING OR DETAINING A JUVENILE PENDING FURTHER ORDER, OR TRIAL

Determining Whether to Release or Detain

Factors the court must consider when deciding whether to release a juvenile:

- (a) family ties and relationships
- (b) prior delinquency record
- (c) record of appearance, or nonappearance, at court proceedings
- (d) the violent nature of the alleged offense
- (e) prior history of committing acts that result in bodily injury to others
- (f) the juvenile’s character and mental ability
- (g) the court’s ability to supervise the juvenile if placed with a parent or relative
- (h) any other factors indicating the juvenile’s ties to the community, the risk of nonappearance, and the danger to the juvenile or the public if the juvenile is released

Criteria for Detention

A juvenile may be ordered detained, or continued in detention, if the court finds probable cause to believe the juvenile committed the offense, and one of more of the following exists:

- (a) release would endanger the public safety
- (b) the juvenile will likely commit another offense pending trial, and
 - (i) another petition is pending
 - (ii) the juvenile is on probation
 - (iii) the juvenile was previously under the court’s jurisdiction
- (c) there is substantial likelihood, that if released, they will not appear at the next court proceeding;
- (d) the home conditions of the juvenile make detention necessary

- (e) the juvenile has run away from home (there are certain limitations for status offenders)
- (f) the juvenile has failed to remain in placement, in violation of a court order; or
- (g) pretrial detention is specifically authorized by law

Conditions for Release

The court may release a juvenile to a parent with or without conditions. MCR 3.935(E)(1). Conditions include:

- (a) not commit any offense
- (b) not use alcohol, any controlled substance or tobacco product
- (c) participate in a substance abuse assessment, testing, or treatment program
- (d) participate in a treatment program for a physical or mental condition
- (e) comply with restrictions on personal associations or place or residence
- (f) comply with a curfew
- (g) maintain appropriate behavior and attendance at an educational program
- (h) surrender a driver's license or passport. MCR 3.935(E)(1)(a)-(h).

Violations of Conditions of Release

If a juvenile allegedly violates a condition of release, the court may order their apprehension. MCR 3.935(E)(2). After an opportunity to be heard regarding the alleged violation, the court may modify the conditions of release or revoke the juvenile's release.

Bail

The court may require a parent, guardian, or legal custodian to post bail. Juveniles may not post their own bail.

Bonds

Bonds allow the release of the juvenile by means of having someone on his or her behalf deposit money with the court or agree to pay a certain amount (post security) to insure his or her appearance at later proceedings, or, if the court determines, allows the juvenile to be released on their own word.

Types of Bonds

- **Cash or Surety:** The court may require a parent, guardian, or legal custodian to post a surety bond or cash in the full amount of the bail.
- **Personal Recognizance:** An obligation entered into before the court containing an individual's promise to appear and answer to an alleged offense.
- **Ten Percent:** A procedure that allows persons to pay to the court ten percent of the bond otherwise required of them to obtain their release.

Forfeiture of Bond

If the conditions of bail are not met, the court may issue a writ of apprehension of the juvenile and order forfeiture of the bail money. MCR 3.935(F).

Questions for Review:

What is a petition?

What is the purpose of a petition?

What is the purpose of preliminary hearing?

What factors must the court consider when deciding to release a juvenile?

What factors must the court consider when deciding to detain a juvenile?

What action can the court take if a juvenile violates release conditions?

What is bail/bond?

6: Adjudication, Dispositional Hearings, and Dispositional Options/Orders

Chapter 6: Adjudication, Dispositional Hearings, and Dispositional Options/Orders

ADJUDICATION

Definition of Adjudication

Adjudication is the determination that the minor comes within the jurisdiction of the court; meaning that the fact-finder determines that the juvenile has violated a criminal law or committed a civil infraction or status offense. MCL 712A.2(a)(1)–(4).

Right to Counsel

The court must advise a juvenile charged with a criminal or status offense that they are entitled to be represented by counsel at each stage of the proceeding. MCL 712A.17c.

Standard of Proof

Application of the “beyond a reasonable doubt” standard applies to both criminal and status offenses. See *In re Winship*, 397 US 358, 366-68 (1970); *In re Weiss*, 224 Mich App 37, 42 (1997); MCR 3.942(C).

Teacher-Student Privilege

Public school employees are prohibited from disclosing a youth's records or confidences without the consent of a parent or legal guardian. MCL 600.2165.

Findings of Fact by Judge or Referee

A referee must make a written signed report to the judge containing a summary of the testimony taken and a recommendation. MCL 712A.10(1)(c).

Record of Proceedings

A record of all hearings must be made. MCR 3.925(B).

Pleas

A court may take a plea of admission or no contest.

Drug Treatment Courts

If a juvenile is denied admission to the drug treatment court after (s)he has admitted responsibility, (s)he is allowed to withdraw the admission of responsibility. MCL 600.1068(5).

Bifurcated Proceeding

If the judges in each county agree, adjudication may occur in the original county where the offense occurred, and disposition may occur in the county to where the case is being transferred. MCR 3.926(E).

DISPOSITIONAL HEARINGS

Definition and Purpose of Dispositional Hearings

Dispositional hearings are conducted after a finding that a juvenile has committed an offense. Similar to sentencing in an adult case, the purpose of a dispositional hearing is to determine measures the court will take. MCR 3.943(A).

Time Requirements for Dispositional Hearings

The time between the plea of admission or trial and disposition, if any, is within the court's discretion. When the juvenile is detained, the interval may not be more than 35 days, except for good cause. MCR 3.943(B).

Right to Have Judge Preside at Dispositional Hearing

Parties have a right to appear before a judge at a hearing on the formal calendar. MCR 3.912(B). Unless a party has demanded a trial by judge or jury, a referee may conduct the trial and further proceedings through the dispositional phase. MCR 3.913(B).

Use of Probation Officer Reports at Dispositional Hearings

- (1) All information, including written and oral reports made by the probation officer or caseworker, may be considered by the court, even if such information would not be admissible at trial.
- (2) The juvenile, their attorney, and the petitioner are to be given an opportunity to review and contest reports and, at the court's discretion, cross-examine probation officers and caseworkers. MCR 3.943(C).

Victim Impact Statements

A crime victim has the right to submit an impact statement.

A drug treatment court must permit a victim and others to submit a written statement to the court regarding whether a juvenile should be admitted into the drug treatment court. MCL 600.1068(4).

Required Evaluation of Juveniles Adjudicated of Cruelty to Animals or Arson

Juveniles found responsible for an offense that if committed by an adult would constitute cruelty to animals or arson, must be evaluated to determine the need for psychiatric or psychological treatment. MCL 712A.18l.

DNA Profiling

Effective July 1, 2015, the Michigan State Police must receive and permanently retain a DNA profile for any offense that would be a felony if committed by an adult. MCL 28.176; MCL 712A.18k

DISPOSITIONAL OPTIONS

The Juvenile Code and Michigan Court Rules state a preference for leaving the juvenile in his or her home. See MCL 712A.1(3); MCR 3.902(B)(1). However, the court has many dispositional options available, including:

1) Warning Juvenile and Dismissing Petition. MCL 712A.18(1)(a).

If there are any financial damages to any victim, the court must order the juvenile (and may order his/her parent) to pay restitution. MCL 712A.30-.31; MCL 712A.18(7).

2) Appointing a Guardian. MCL 700.5204

If the court appoints a guardian, it *may* enter an order dismissing the petition. MCL 712A.18(1)(h).

3) In-Home Probation. MCL 712A.18(1)(b).

The court may place the juvenile under supervision in their own home or in the home of an individual who is at least 18 years of age and related to the juvenile; meaning a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, and others.

The court is required to order terms and conditions of probation, including rules governing the conduct of parents, guardians, or custodians. MCL 712A.18(1)(b).

Required probation conditions include that the probationer not violate any criminal law, not leave the state without the court's consent, and report to the probation officer in person or in writing as often as required. MCL 771.3(1).

4) Participation in a Juvenile Drug Treatment Court. MCL 712A.18(1)(b).

5) Community Service. MCL 712A.18(1)(i).

6) Foster Care. MCL 712A.18(1)(c).

7) Juvenile Boot Camp. MCL 400.1301, MCL 712A.18(1)(m).

8) Placement in or Commitment to a Private Institution or Agency.
MCL 712A.18(1)(d).

Special Requirements When a Juvenile is Placed Outside of Michigan

Before a juvenile may be placed in an institution outside of Michigan, the court must find that:

- (a) institutional care is in the best interest of the juvenile,
- (b) equivalent facilities are not available within Michigan, and
- (c) the placement will not cause undue hardship. MCL 712A.18a, MCR 3.943(E)(3).

9) Commitment to a Public Institution or Agency:

The court may commit a juvenile to a public institution, county facility or institution. MCL 712A.18(1)(e). (**Note:** If the court designates an initial level of placement, eligibility for funding under Title IV-E of the Social Security Act is affected.) See Chapter 15: Continuum of Services and Funding.

Juveniles may be committed to a county Department of Human Services (DHS) office "for placement and care". MCL 400.55(h). See SCAO Form JC 25.

Juveniles may also be committed as "public wards" to the DHS pursuant to the Youth Rehabilitation Services Act. MCL 803.301.

10) Mandatory Commitment to Detention Facility for Use of a Firearm:

A juvenile must be committed to a detention facility if the juvenile used a firearm. The period of time in detention shall not exceed the length of the sentence that could have been imposed if the juvenile had been sentenced as an adult for the offense. MCL 712A.18(1)(e); MCL 712A.18g(1)(c); MCR 3.943(E)(7)(a).

11) Fines:

The court may order the juvenile to pay a fine. MCL 712A.18(1)(j). The maximum amount of a fine is usually found in the statute that defines the offense. If the statute is silent, then the maximum amount of the fine shall be \$5000 for a felony, and \$500 for a misdemeanor. MCL 750.503-4.

12) Minimum State Costs:

If a juvenile is ordered to pay any combination of fines, costs, restitution, assessments, or payments, the court shall order costs of at least:

- \$50 for a misdemeanor
- \$68 for a felony

Fines, costs, and other financial obligations imposed by the court must be paid at the time of assessment. MCR 1.110.

For a complete list of crime victim assessments, see:

<http://courts.mi.gov/Administration/SCAO/Resources/Documents/other/CrimeVictimAssessment.pdf>

13) Restitution:

Crime victims have a constitutional right to restitution. Const 1963, Art 1, § 24.

Restitution is intended to compensate the victim rather than punish the defendant or juvenile. *People v Grant*, 445 Mich 221, 230 n 10 (1997). An in-depth discussion of restitution is covered in Chapter 8 of this manual.

14) Payment of Costs:**Hearings on Amount or Ability to Pay Costs**

A court is *not required* to hold a hearing to determine a juvenile's ability to pay before ordering costs. If a juvenile requests a hearing the court must determine the probationer is or will be able to pay costs during the term of probation.

No Probation Revocation for Indigent's Failure to Pay Costs

Probation may not be revoked for failure to pay fines, costs, or restitution if the reason for nonpayment was the defendant's indigence.

Use of Bail Money to Pay Costs

MCR 3.935(F)(4)(a) permits the application of bail money paid by a parent to costs and reimbursement of the costs of care and service. MCR 6.106(I)(3); MCL 765.15(2).

Forgiveness of Costs

A probationer who is required to pay costs and who is not in willful default of the payment of the costs may petition for a forgiveness (remission) of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a hardship on the probationer or his or her immediate family, the court may forgive all or part of the amount due in costs or modify the method of payment. MCL 771.3(6)(a)-(b); MCL 712A.18(19).

Supplemental Orders of Disposition

At any time while a juvenile is under the family division's jurisdiction, the court may terminate jurisdiction, or amend or add to a disposition order. MCL 712A.18; MCL 712A.19(1).

MCR 3.943(E)(2) requires the court to consider imposing “graduated sanctions” upon a juvenile when making second and subsequent dispositions in delinquency cases. That court rule states: In making second and subsequent dispositions in delinquency cases, the court must consider imposing increasingly severe sanctions, which may include:

- additional conditions
- extending the term
- additional costs
- out-of-home placement
- more restrictive placement
- state wardship
- any other conditions deemed appropriate by the court

Appeals

A juvenile may appeal an order of disposition that places them under the supervision of the court, or an order of disposition that removes them from the home.

MCR 3.993(A)(1): *In re McCarrick/ Lamoreaux*, ___ Mich App at ___(2013).

ORDERS DIRECTED TO PARENTS AND OTHER ADULTS

Refrain from Conduct Harmful to the Juvenile

The court may order the parents, guardian, custodian, or any other person to:

- 1) refrain from undesirable conduct. (MCL 712A.18(1)(g)).
- 2) participate in treatment. (MCL 712A.18(1)(l)).
- 3) assist in ensuring the juvenile’s continued participation in, and successful completion of, the drug treatment court. (MCL 600.1072(2)).

Health Care, Clothing, and Incidentals

The court may provide the juvenile with medical, dental, surgical, or other health care, and with clothing and other incidental items as the court considers necessary.

MCL 712A.18(1)(f).

Contempt of Court for Parent/Guardian/Other Adult OR Juvenile at Least 17 years of Age

If a parent, guardian or other adult, or a juvenile who has attained the age of 17, fails to comply with the court’s order, contempt proceedings may be initiated by a probation officer. SCAO Form JC 40 may be used. MCR 3.928. This form should not be used for probation violations.

Extension of Family Division Jurisdiction Beyond a Juvenile’s Seventeenth Birthday

The family division has jurisdiction over juveniles less than 17 years of age who violate a law or ordinance or commit a status offense. MCL 712A.2(a)(1)B(4).

If the court has jurisdiction under MCL 712A.2(a), the court shall extend jurisdiction until the juvenile reaches age 19, unless the court terminates jurisdiction sooner by order. MCL 712A.2a-2a(1). However, if the court has exercised jurisdiction over a juvenile for an enumerated serious offense and committed the juvenile to a public institution or agency, jurisdiction may be extended, following a hearing, until the juvenile is 21. MCL 712A.2a(2).

Questions for Review:

What is the purpose of adjudication?

When does a dispositional hearing occur, and what is its purpose?

What are the time requirements within which the court must hold a dispositional hearing?

May a probation officer submit a report and recommendation at a dispositional hearing?

Are juveniles subject to DNA profiling?

What dispositional options are available to the court?

Are there any special considerations regarding juveniles' participation in drug treatment court?

Can the court enter and enforce orders against parents and other adults?

Can the court extend its jurisdiction beyond the age of 17? If so, to what age(s) and under what circumstances?

Chapter 7: Review of Juvenile Dispositions

PERIODIC DISPOSITIONAL REVIEW HEARINGS

The court is required to hold hearings to review dispositional orders in delinquency cases, and may include the probation officer or community service worker. The victim has a right to make an oral and/or written statement.

At a review hearing, the court may modify or amend the dispositional order or treatment plan. MCR 3.945(A)(1).

REVIEW HEARING BEFORE MOVING A JUVENILE TO A MORE PHYSICALLY RESTRICTIVE PLACEMENT

The court is required to conduct a review hearing before moving a juvenile to a more physically restrictive placement *unless* the juvenile and his or her parent consent in writing filed with the court. MCR 3.945(A)(2).

Progress Reports

When a placement is made to a private institution or agency the court must require that a progress report be made at least every six months. MCL 712A.24.

Dispositional Review Hearings for Juveniles Placed in Out-of-Home Care

If a child is placed in out-of-home care, the court must hold review hearings at least once every 182 days.

Information That Must Be Reviewed

At a review hearing, the court must review compliance with the case service plan and likely harm to the child if the child continues to be separated from, or returned to, their parent, guardian, or custodian. MCL 712A.19(6)(a)-(e).

Modifying the Plan

The court may modify any part of the case service plan. MCL 712A.19(7)(a)-(b.)

Required Decisions

The court shall:

- (1) return of the child to the custody of the parent
- (2) continue the dispositional order, modify the dispositional order
- (3) enter a new dispositional order. MCL 712A.19(8).

Burden of Proof at Hearings

The juvenile has the burden of proving, by a preponderance of the evidence, that he or she has been rehabilitated. MCR 3.945(B)(4); MCL 712A.18d(2).

Reports at Hearings

The institution shall prepare commitment reports. MCL 803.225; MCL 712A.18d(5).

Subsequent Review Hearings

If the court extends jurisdiction over the juvenile until the juvenile turns age 21, and the juvenile is placed outside the home, the court must hold a dispositional review hearing every 182 days. MCR 3.945(C)(1).

If the institution, agency, or facility believes that the juvenile has been rehabilitated, they may petition the court to conduct a review hearing at any time before the juvenile becomes 21 years of age. MCR 3.945(C)(2).

CONTINUED JURISDICTION

The court shall retain jurisdiction over the juvenile until age 19, unless the juvenile is released earlier by court order, or unless the court has extended jurisdiction until age 21 for certain serious offenses. MCL 712A.2a(1) and (2); MCL 712A.18c(4). If the court continues jurisdiction over the juvenile, the juvenile shall be automatically discharged upon reaching the age of 21. MCL 712A.18d(1); MCL 803.307(1)(a) and (2).

REQUIREMENTS OF THE CRIME VICTIM'S RIGHTS ACT

A crime victim has the right to:

- 1) notice of juvenile's transfer from one facility to another
- 2) notice of review hearings and the right to make a statement
- 3) notice of juvenile's dismissal from court jurisdiction or discharge from commitment to juvenile agency
- 4) early termination of probation

Questions for Review:

Can a probation officer request a periodic review?

Can the court place a juvenile in a more physically restrictive environment without a hearing? If so, under what circumstances?

If a child is placed in foster care, how often must a rehearing occur?

What information must be reviewed at a dispositional review hearing?

If a juvenile is committed to a private institution, how often must progress reports be made?

What is the purpose of the required commitment review hearing?

Who has the "burden of proof" at a review hearing?

If the court extends jurisdiction to age 21, how often must a dispositional review hearing be held?

What offenses allow the court to extend jurisdiction to age 21?

What rights do crime victims have?

Chapter 8: Restitution

Purpose of Restitution

The Michigan Constitution gives crime victims the right to receive restitution. The purpose of restitution is to compensate the victim rather than punish the juvenile. Const 1963, Art 1 § 24; *People v Grant*, 445 Mich 221; 230 NW 10 (1997).

Michigan Statutes Addressing Restitution

See: MCL 712A.30, MCL 712A.31, MCL 780.751, through MCL 780.834; MCL 712A.18 through MCL 712A.30.

“Victim” Defined

“Victim” is defined as an individual who suffers direct or threatened physical, financial, or emotional harm as a result of an offense, or a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of an offense.

Offenses for Which Restitution Must Be Ordered

The Crime Victim’s Right Act (CVRA) requires restitution for any criminal offense.

Victim’s Right to Submit Information

The CVRA requires the person preparing a disposition report to notify victims of their right to submit information to the court regarding restitution.

When Must Restitution Must Be Ordered

The court is to order restitution at the disposition or sentencing hearing.

Claims for Restitution That Arise After Disposition or Sentencing

The court may amend a restitution order based upon new information.

Required Restitution When Ordering an Informal Disposition in a Juvenile Delinquency Case

For an offense that does not result in a dispositional hearing, by assignment to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order restitution.

Persons or Entities Entitled to Restitution

All victims and individuals or entities that have provided services to the victims are entitled to restitution. The court must order restitution to be paid to the victim or the victim’s estate first. *People v Bell*, 276 Mich App 342 (2007).

If the victim is deceased, the court shall order restitution to the victim’s estate.

An offender may not be held liable for restitution for crimes for which he or she was not specifically charged. *People v McKinley*, 496 Mich 410 (2014).

The court can order criminal defendants to pay victims' travel expenses connected with recovering their stolen property and attending restitution hearings. *People v Garrison*, 495 Mich 362, 365, 373 (2014).

The court may order restitution to a governmental agency for the loss of “buy money” resulting from drug offenses. *People v Crigler*, 244 Mich App 420, 427 (2001).

Expenses that are not reimbursable under statutes may not be included in a restitution order. *People v Jones*, 168 Mich App 191, 196 (1988).

A school district qualifies as a victim. *In re McEvoy* 267 Mich App 55 (2005).

MCL 780.794(24) states that if the victim is a minor, the defendant may be required to pay to the parent of the victim a reasonable amount for:

- (a) homemaking and child care expenses
- (b) income loss not ordered to be paid under subsection (4)(h)
- (c) mileage
- (d) lodging or housing
- (e) meals
- (f) any other costs incurred

Time Requirements for Making Restitution

Restitution must be made immediately. The court may require the juvenile to make restitution within a specified period or in specified installments.

Amount of Restitution Required

The court must consider the amount of the loss sustained by any victim.

Codefendants and coconspirators may be held jointly and severally liable for the entire amount of loss.

Each conspirator is criminally responsible for the acts of his coconspirators committed in furtherance of the conspiracy. Ordering a defendant to pay full restitution is justified. *People v Grant*, 455 Mich 221 (1997).

CALCULATING RESTITUTION

1) Where the Offense Results in Property Damage, Destruction, Loss, or Seizure

If return of the property is impossible, impractical, or inadequate, the court may order the juvenile to pay the value of the property on the day it was damaged, lost, or destroyed, or the value of the property at disposition.

2) Where the Offense Results in Physical or Psychological Injury, Serious Bodily Impairment, or Death Expenses Related to Physical or Psychological Injury

The court *shall* order restitution for professional services and devices, physical and occupational therapy, lost income, medical and psychological treatment for the victim’s family, and homemaking and childcare expenses.

3) Expenses Related to the Victim’s Death

The court must order the restitution be paid to the victim’s estate.

4) Triple Restitution for Serious Bodily Impairment or Death of a Victim

If an offense causing bodily injury to the victim also results in the serious impairment of a body function or the death of that victim, the court may order up to three times the amount of restitution otherwise allowed under the CVRA.

Reports by Probation Officers

The court may order a probation officer to obtain information pertaining to the amount of loss suffered by a victim, and this information must be included in a disposition report or a separate report, as the court directs.

The court must disclose to the juvenile, the juvenile's parent, and the prosecuting attorney all portions of the disposition or other report pertaining to the amount of loss.

Hearings on Restitution Payable by Juvenile's Parent

The court may order the juvenile's parent to pay some or all of the restitution owed.

- 1) The juvenile's parent must be given an opportunity to be heard on the issue.
- 2) The court must consider "the parent's financial resources and the burden that the payment of restitution will impose, with regard to any other financial obligations the parent may have."

The court must cancel all or part of the parent's obligation if the court determines that payment of the amount will impose a hardship on the parent *and* also determines that modifying the method of payment will not impose a hardship on the victim.

The Juvenile Code does not limit the amount of restitution for which a parent may be held liable. See *In re McEvoy*, 267 Mich App 55 (2005).

Orders for Services by Juvenile in Lieu of Money

"If the victim or victim's estate consents, the order of restitution may require that the juvenile make restitution in services in lieu of money."

RESTITUTION ORDERED AS A CONDITION OF PROBATION

If a juvenile is placed on probation, any restitution ordered by the court must be a condition of that probation. Where restitution is imposed as a condition of probation, the court must also order either community service or employment as a condition of probation.

The court may revoke probation if the juvenile intentionally refuses to perform required community service.

Wage Assignment by Employed Defendant or Juvenile as a Condition of Probation

If a juvenile is employed, they are to make regularly scheduled payments. If they miss two or more such payments, the court shall execute a wage assignment.

Review of Restitution as a Condition of Probation

The probation officer or caseworker shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be paid within a specified period of time, review of the case must occur at the end of the specified period. A final review of restitution payment must be conducted not less than 60 days before the expiration of the probationary period.

Revocation of Probation for Failure to Comply with Restitution Order

If restitution is not being paid as ordered, the worker must file a written report of the violation with the court, including a statement of the amount of the arrearage and any reasons for the arrearage that are known by the probation officer or caseworker.

A court may revoke probation if the juvenile fails to comply with the restitution order and has not made a good-faith effort.

A juvenile cannot be detained for a violation of probation for failure to pay restitution unless the court determines that the juvenile has the resources to pay and has not made a good-faith effort.

Modification of Method of Payment of Restitution

The court may modify the method of payment of restitution imposed, so long as it does not create a hardship for the juvenile or the victim.

Enforcing a Restitution Order

A restitution order is enforced in the same manner as a civil judgment, not by filing a new civil action. The court cannot impose a fee on a victim, victim's estate, or prosecuting attorney for enforcing a restitution order.

Payment of Restitution When Juvenile is Placed in a Juvenile Facility

Being placed in a facility does not relieve the juvenile of their obligation to pay restitution. If the juvenile receives more than \$50 in a month, 50 percent of the amount over \$50 received by the juvenile is to be deducted for payment of restitution. When the amount deducted exceeds \$100, or when the juvenile is released, the juvenile must promptly send the money to the victim.

Dischargeability

Restitution order is not dischargeable in bankruptcy cases.

No Forgiveness (Remission) of Restitution If Adjudication Is Set Aside

If a juvenile successfully moves to set aside his or her adjudication, the juvenile "is not entitled to the remission (forgiveness) of any fine, costs, or other sums of money paid as a consequence of an adjudication [or conviction] that is set aside," including restitution.

Unclaimed Restitution

If restitution paid by the juvenile is unclaimed or refused by the victim for a period of two years, those funds are to be deposited in the Crime Victim's Rights Fund.

CRIME VICTIM'S RIGHTS FUND ASSESSMENT

Assessments of Adjudicated Delinquents

The court must order a \$25 "crime victim's rights fund assessment" against an adjudicated juvenile.

Fines, Costs, Restitution, Fees, Assessments, and Other Payments

Court costs, penal fines, probation supervision fees, and other payments or assessments must be paid at the time of assessment, except when the court allows otherwise.
MCR 1.110.

Discharge from Probation While Restitution is Owed

An order of restitution remains effective until it is satisfied. Probation officers and caseworkers should not recommend discharge unless all efforts to collect restitution have been made. You should advise the recipient of restitution to seek a "money judgment" in district court and provide any necessary assistance by supplying documentation. Upon entry of a judgment in the district court, a recommendation for discharge from probation may occur.

Questions for Review:

What is the purpose of restitution?

What does the CVRA require with respect to restitution?

Can the court order/modify restitution after the dispositional order is entered?

Who is entitled to restitution?

What are the time requirements for making restitution?

Can codefendants and/or coconspirators each be held liable for the entire amount of restitution?

How is restitution calculated?

What reports are probation officers likely to be required to provide?

Can parents be ordered to pay restitution for their child's act?

Can the court order services and/or community service work in lieu of money?

How often is a probation officer required to review restitution payments?

How is restitution enforced?

Can probation be revoked for failure to pay restitution? If so, under what circumstances?

Can a juvenile be discharged from probation if he or she still owes restitution?

9: Probation Violations

Chapter 9: Probation Violations

DUE PROCESS REQUIREMENTS

Probationers are entitled to:

- (a) written notice of the claimed violations of probation
- (b) disclosure of evidence against them
- (c) opportunity to be heard in person and to present witnesses and evidence
- (d) the right to confront and cross-examine witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation)
- (e) a 'neutral and detached' hearing body . . . , and
- (f) a written statement by the fact finder as to the evidence relied on and reasons for revoking probation. See: *People v Pillar*, 233 Mich App 267, 269 (1998), *Gagnon v Scarpelli*, 411 US 778 (1973):

INITIATING PROBATION VIOLATION PROCEEDINGS

MCR 3.944(A) sets forth the procedure for initiating probation violation proceedings. The following options are available to initiate such proceedings:

Petition; Temporary Custody

Submit a supplemental petition alleging that the juvenile has violated a condition of probation.

Upon receipt, the court may:

- (a) direct that the juvenile be notified, pursuant to MCR 3.920, to appear for a hearing; or
- (b) order that the juvenile be apprehended and brought to the court for a detention hearing, which must be commenced within 24 hours after the juvenile has been taken into court custody, excluding Sundays and holidays as defined in MCR 8.110 (D)(2).

Issuance of Summons or Notice of Hearing

A summons may be used to direct the juvenile to appear for a hearing on the alleged probation violation. If the juvenile is not in custody, at least 7 days' notice must be given. A copy of the probation violation petition and notice of juvenile's rights must be provided. MCR 3.944(A)(1)(a); MCR 3.920(C)(1); MCR 3.921(A)(1).

In a notice to appear for a probation violation hearing or at the detention hearing, the juvenile must be provided a copy of the supplemental petition and advised of his or her rights. MCR 3.944(A)(1)(a); MCR 3.944(B)(2); MCR 3.944(B)(4).

A juvenile has the right to:

- (1) be present at the hearing
- (2) an attorney
- (3) have the petitioner prove the probation violation by a preponderance of the evidence
- (4) have the court order any witnesses to appear at the hearing
- (5) question witnesses against him or her
- (6) remain silent and not have that silence used against the juvenile, and
- (7) testify at the hearing, if the juvenile wants to testify

Issuing an Order to Apprehend a Juvenile and Conducting a Detention Hearing

Instead of issuing a summons, the court may issue an order to apprehend a juvenile and bring him or her into court for a detention hearing. The order may only be issued upon probable cause and must specify the juvenile and the place where the juvenile may be found. MCL 712A.2c states as follows: "The court may issue an order authorizing a peace officer or other person designated by the court to apprehend a juvenile who . . . has violated probation."

When a juvenile is apprehended per a court order, the officer must:

"(a) . . . take the juvenile:

(i) to the court for a detention hearing; or

(ii) to the place designated by the court pending the scheduling of a detention hearing; and

(b) notify the custodial parent, guardian, or legal custodian that the juvenile has been taken into custody, the time and place of the detention hearing, if known, and the need for the presence of the parent, guardian, or legal custodian at the detention hearing." MCR 3.934(B)

Detention Hearings

Conduct of Detention Hearing

MCR 3.944(B) states, in part, that at a detention hearing the court must:

- (1) determine whether a parent, guardian, or legal custodian has been notified and is present. If they have been notified, but fail to appear, the detention hearing may be conducted without a parent, guardian, or legal custodian *if* a guardian ad litem or attorney appears with the juvenile
- (2) provide the juvenile with a copy of the petition alleging a probation violation
- (3) read the petition to the juvenile, unless the attorney or the juvenile waives the reading
- (4) advise the juvenile of his or her rights, and of the possible dispositions, and
- (5) allow the juvenile an opportunity to deny or otherwise plead to the probation violation

Detention without Bond

A juvenile may be detained without bond pending a probation violation hearing if the court finds probable cause to believe that the juvenile violated a condition of probation. MCR 3.944(B)(5)(b).

Contempt of Court for Parent/Guardian/Other Adult OR Juvenile at Least 17 years of Age

In the event that a parent, guardian, or other adult or a juvenile who has attained the age of 17 fails to comply with the court's order, contempt proceedings may be initiated by a probation officer.

SCAO Form JC 40 may be used in two situations:

- (1) When the probationer has already attained the age of 17 and you are seeking a sanction that may result in jailing the offender for up to 93 days; or
- (2) In situations where you are pursuing contempt charges against a parent, guardian, or other adult for their failure to comply with the court's order. See MCR 3.928.

This form should not be used for probation violations.

PLEA PROCEDURES

Pleas of Admission or No Contest

A juvenile may admit to the probation violation or plead no contest. However, before accepting the plea, the court must:

- (1) tell the juvenile the nature of the alleged probation violation
 - (2) tell the juvenile the possible dispositions
 - (3) tell the juvenile that if the plea is accepted the juvenile waives some rights
 - (4) confirm any plea agreement on the record
 - (5) ask the juvenile if any promises have been made beyond those in the plea agreement and whether anyone has threatened the juvenile
 - (6) establish support for a finding that the juvenile violated probation
 - (7) inquire of the parent, guardian, legal custodian, or guardian ad litem whether there is any reason why the court should not accept the juvenile's plea, and
 - (8) determine that the plea is accurately, voluntarily, and understandingly made.
- MCR 3.944(D).

Moreover, the court must specifically inform a probationer of their right to a hearing and the opportunity to contest the charges.

Procedures at Probation Violation Hearings

A probation violation hearing is a dispositional hearing, not an adjudicative hearing.

Recording Probation Violation Hearings

Detention hearings, plea hearings, and violation hearings must be recorded. MCR 3.925(B).

“Neutral and Detached Hearing Body,” Probation Officers, and Referees

If a referee tries a case, that same referee may conduct a probation violation hearing even if the juvenile requests that a judge preside at such a hearing. MCR 3.913(B).

MCL 712A.10(1) allows a court to assign a juvenile probation officer or county agent as a referee. The juvenile officer who submits a petition alleging a probation violation should not serve as fact finder at the hearing on the alleged violation.

Appearance of Prosecuting Attorney

If the court requests, the prosecuting attorney must review the petition for legal sufficiency and appear at any delinquency proceeding. MCR 3.914(A); MCL 712A.17(4).

Violation of Probation Based on Finding of Responsibility for an Offense

A juvenile may be found to have violated probation based upon a prior finding of responsibility for an offense at a plea or trial. MCR 3.944(C)(3). A probation revocation hearing may still be held even if proceedings involving the underlying offense against the probationer are pending and for the same conduct for which revocation is sought.

MCR 3.944(E)(2) provides that a finding of probation violation based upon the juvenile's responsibility for an offense must be recorded as a probation violation only, not a finding of responsibility for the underlying offense.

Limitations on Use of Evidence at Probation Revocation Proceedings

Statements made to a probation officer (or caseworker) during an interview are admissible in probation revocation hearings or subsequent criminal proceedings, even absent Miranda warnings. But, a probationer cannot be compelled to testify against him/herself at a probation revocation hearing.

Additional Witnesses or Additional Evidence

The court has authority to call or examine witnesses and to order production of additional evidence or witnesses. MCR 3.923(A)(1).

Underlying Order of Disposition

The juvenile may not attack the underlying order of disposition at a probation revocation hearing.

DISPOSITIONS FOLLOWING A FINDING OF PROBATION VIOLATION

If the court finds that a probation violation has occurred, the court may modify the existing probation order or order any other disposition under MCL 712A.18 or 712A.18a; MCR 3.944(B)(5)(a); MCR 3.944(E)(1).

Supplemental Orders of Disposition

The court may amend or supplement a disposition. In doing so, the court must consider imposing increasingly severe (graduated) sanctions, which may include ordering:

- additional conditions of probation
- an extended term of probation
- additional costs
- out-of-home placement
- a more restrictive placement
- state wardship
- any other conditions

Questions for Review:

Is a juvenile entitled to due process on a probation violation?

How do you initiate a probation violation proceeding?

Can juveniles be detained pending a probation violation hearing?

What rights does a juvenile have at a probation violation hearing?

Should the probation officer assigned to the juvenile's case also act as a referee at a probation violation hearing?

Can statements made by the juvenile to a probation officer or caseworker be used at a probation violation hearing?

Can the court enter a supplemental order of disposition as the result of a probation violation hearing?

**10: Minor Personal
Protection Order (PPO)
Proceedings**

Chapter 10: Minor Personal Protection Order (PPO) Proceedings

JURISDICTION

Jurisdiction of Minor PPO Proceedings

The family division has jurisdiction over minor respondents between the ages of 10 and 18-years-old in personal protection order (PPO) proceedings. MCL 712A.2(h).

A 'Minor' for purposes of a PPO means a person under the age of 18, and may include a person age 18 or older over whom the juvenile court has continuing jurisdiction under MCL 712A.2a.; MCR 3.903(A)(16). A PPO may not be issued if the respondent is less than ten years of age. MCL 600.2950(27)(c).

Issuance, Dismissal, Modification, and Termination of a PPO

If the respondent is under age 18, issuance of a PPO is subject to the Juvenile Code. MCL 600.2950(28); MCL 600.2950a(26); MCR 3.701(A); MCR 3.981; MCR 3.703(F)(1) requires a minor petitioner or a legally incapacitated individual to proceed through a next friend.

The respondent may file a motion to modify or terminate an *ex parte* personal protection order and request a hearing within 14 days after being served with, or receiving actual notice of, the order. MCR 3.707(A)(1)(b).

No Parent-Child PPOs

A PPO may not be issued if the petitioner and respondent have a parent-child relationship and the child is an unemancipated minor.

Mutual Orders Prohibited

The court may not issue mutual personal protection orders.

TYPES OF PPOs

(1) Domestic Relationship PPOs (MCL 600.2950)

A Domestic Relationship PPO is used to restrain behavior (including stalking) that interferes with the petitioner's personal liberty, or that causes a reasonable apprehension of violence.

To fall under a domestic relationship PPO, the respondent must be:

- A person with whom the petitioner has had a child in common
- A person who resides or who has resided in the same household as petitioner
- A person with whom the petitioner has or has had a dating relationship.

MCL 600.2950(1).

"Dating relationship" is defined in the statute as "frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context." MCL 600.2950(30)(a).

(2) Nondomestic PPOs

A nondomestic stalking PPO is available to restrain anyone who is stalking, including someone who is a stranger to the petitioner.

(2)(A) Nondomestic Relationship PPOs (MCL 600.2950a)

Nondomestic Stalking PPOs are used to restrain a person, regardless of that person's relationship with the petitioner, from engaging in:

- stalking (MCL 750.411h)
- aggravated stalking (MCL 750.411i)
- cyberstalking (MCL 750.411s)

Available to restrain anyone ten years of age or older who is stalking, including a stranger to the petitioner.

(2)(B) Nondomestic Sexual Assault PPOs. MCL 600.2950a(2)

Nondomestic Sexual Assault PPOs are used when the respondent:

- (1) has been convicted of sexually assaulting the petitioner
- (2) has been convicted of furnishing obscene material to the petitioner under MCL 750.142
- (3) has placed the petitioner in reasonable apprehension of sexual assault.

Petitioner May Not Be a Prisoner

A court must not enter a nondomestic stalking PPO if the petitioner is a prisoner. MCL 600.2950a(31).

A "prisoner" includes an adjudicated delinquent. MCL 600.2950a(32)(e).

Filing Fee

There is no fee for filing a PPO. MCL 600.2529(1)(a); MCR 3.703(A).
(MCL 600.2529 has been amended and a search will reflect that)

REQUIRED PROVISIONS IN A PPO

If the court grants a PPO petition, the resulting order must contain the following information/statements:

- A PPO has been entered.
- The penalties for violation.
- If the respondent is less than 17 years of age, the PPO must state that a violation will subject the respondent to immediate apprehension or being taken into custody, and the dispositional alternatives listed in MCL 712A.18.
- A statement that the PPO is "effective and immediately enforceable anywhere in Michigan when signed by a judge, and also may be enforced by another state, an Indian tribe, or a territory of the United States." A statement listing the prohibited conduct.
- An expiration date. MCR 3.706, MCL 600.2950 and 2950a.

Duration of a PPO

Orders must be valid for at least 182 days. Statutes place no maximum limit on the duration of a PPO. MCL 600.2950(13); MCL 600.2950a(13).

Entry of the Order Into the Law Enforcement Information Network (LEIN)

After issuance of a PPO, the clerk of the court has the responsibility to facilitate entry of the PPO and other related documents into the LEIN system.

Service of the Petition and Order

The petitioner is responsible to arrange for service of the PPO. **Note:** A PPO is effective and enforceable upon a judge's signature without written or oral notice. Failure to serve it on the respondent does not affect the PPO's validity or effectiveness. MCR 3.705(A)(4); MCR 3.706(D). However, if it has not been personally served then prior to apprehension, the respondent must be given an opportunity to comply with the terms of the PPO.

DISMISSAL OF A PPO ACTION

Involuntary Dismissal

An involuntary dismissal of a PPO action can only be initiated by the court under the following circumstances:

- The court has determined that the petitioner's claims are without merit.
- The petitioner has failed to attend a hearing scheduled on the petition.

Voluntary Dismissal

MCR 3.704 permits the petitioner to move for dismissal of a PPO action prior to the issuance of an order. There is no fee for filing this motion.

ENFORCING A MINOR PPO

Jurisdiction of Contempt Proceedings

The family division has jurisdiction to conduct contempt proceedings based upon a violation of a PPO. MCL 764.15b(6).

Requests for court action to enforce a PPO may be in writing by way of a supplemental petition containing the facts and alleged violation. MCR 3.983(A). A probation officer or a caseworker may file this petition.

Apprehension of the Respondent

A court may issue an order for apprehension of a minor who allegedly violates a PPO. MCL 712A.2c.

Apprehending a PPO Violator Without a Court Order

MCL 712A.14(1) authorizes apprehension of a minor respondent for an alleged violation of a PPO as follows:

"Any local police officer, sheriff or deputy sheriff, state police officer, county agent, or probation officer of any court of record may, without the order of the court, immediately take into custody any child who is found violating any law or ordinance, or whose surroundings are such as to endanger his or her health, morals, or welfare, or for whom there is reasonable cause to believe is violating or has violated a personal protection order, or for whom there is reasonable cause to believe is violating or has violated a valid foreign protection order."

Designated Court Contact

The court must designate a judge, referee, *or other person* who may be contacted by the officer taking a minor under age 17 into custody when the court is not open for permission to detain the minor pending preliminary hearing. MCR 3.984(D).

Transfer of Minor PPO Cases to Issuing Court for Enforcement

When a minor who has allegedly violated a PPO is apprehended in a county other than the county in which the PPO was issued, the case may be transferred to the issuing county for enforcement proceedings. MCR 3.984(E).

Authority of Referees to Conduct Proceedings

The court **may not** assign a referee to preside at a proceeding on the issuance, modification, or termination of a PPO. MCR 3.912(A)(4). A nonattorney referee may preside at a preliminary hearing for enforcement of a minor personal protection order. Only a referee licensed to practice law in Michigan may preside at any other hearing for the enforcement of a minor personal protection order and make recommended findings and conclusions. MCR 3.913(A)(2)(d).

Enforcing Foreign Protection Orders

The family division has jurisdiction to conduct proceedings to enforce a valid foreign protection order. MCL 600.2950h

Preliminary Hearings

A preliminary hearing (as well as a violation hearing) on an alleged PPO violation may take place in either the issuing jurisdiction or the jurisdiction where a minor respondent was apprehended. MCL 764.15b(6).

Presence of parent

The court shall determine whether the parent, guardian, or custodian has been notified and is present. The preliminary hearing may be conducted without a parent, guardian, or custodian *if* a guardian ad litem or attorney appears with the minor. MCR 3.985(B)(1).

Respondent's Rights

The respondent may:

- (a) contest the allegations at a violation hearing
- (b) have an attorney at every stage in the proceedings
- (c) have a nonjury trial and that a referee may be assigned to hear the case
- (d) have witnesses appear at a violation hearing
- (e) question the witnesses, and
- (f) remain silent. Any statement the respondent makes may be used against him or her.

Authorization of the Supplemental Petition

At the preliminary hearing, the court must decide whether to authorize the filing of the supplemental petition, or to dismiss the supplemental petition. MCR 3.985(B)(4).

Release of Respondent with Conditions Pending Violation Hearing

In setting release conditions, the court must consider available information on the following factors:

- (a) family ties and relationships
- (b) prior juvenile delinquency or minor PPO record, if any
- (c) record of appearance or nonappearance at court proceedings
- (d) violent nature of the alleged violation
- (e) prior history of committing acts that resulted in bodily injury to others
- (f) character and mental condition
- (g) court's ability to supervise the respondent if placed with a parent or relative
- (h) likelihood of retaliation or violation of the PPO by the respondent, or
- (i) any other factor. MCR 3.985(E).

Detention Pending Violation Hearing

A minor cannot be removed from his or her parent, guardian, or custodian pending a PPO violation hearing or further court order unless:

- (a) probable cause exists to believe the minor violated the minor PPO, and
- (b) at the preliminary hearing, the court finds one or more of the following circumstances to be present:
 - (i) there is a substantial likelihood of retaliation or continued violation
 - (ii) there is a substantial likelihood that if the minor is released they will fail to appear at the next court proceeding; or
 - (iii) detention pending violation hearing is otherwise specifically authorized by law. MCR 3.985(F)(1).

A respondent who is detained must be placed in the least restrictive environment available. MCL 712A.15; MCL 712A.16; and MCR 3.985(F)(4).

Possible Sentences or Juvenile Dispositions

An individual less than 17 years of age is subject to the dispositional alternatives listed in the Juvenile Code.

Questions for Review:

What is a Personal Protection Order (PPO)?

What are the types of PPOs?

What is a "minor" for purposes of a PPO?

What conduct may be prohibited by a PPO?

Is there a filing fee for a PPO?

What authority does a probation officer have to enforce a PPO?

Can the court enforce a Foreign Protection Order?

What are the sanctions for violating a PPO?

- If respondent is under age 17?
- If respondent is over age 17?

Chapter 11: Access to Court Records

FAMILY DIVISION RECORDS

Access to juvenile delinquency records is addressed in the Nonpublic and Limited-Access Court Records document located online at:

http://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cf_chart.pdf

Records retention and destruction schedules are addressed in SCAO Schedule 16.

Schedule 16 may be found online at:

http://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cf_schd.pdf

This schedule outlines the minimum (and in some cases the maximum) periods for the retention of trial court records.

Definition

“Records” include both paper and electronic files, and are defined as pleadings, motions, authorized petitions, notices, memoranda, briefs, exhibits, available transcripts, findings of the court, register of actions (the permanent case history), and court orders. These items are contained in the so-called “legal file”. Confidential information is contained in the so-called “social file”. MCR 3.903(A)(25).

ACCESS TO RECORDS

The general rule is that records of juvenile cases, other than confidential files, must be open to the general public. MCR 3.925(D)(1). Documents and other materials made confidential by court rule, statute, or order of the court must be designated as confidential and maintained to allow only authorized access. MCR 8.119(D).

As previously stated, **confidential file** means:

that part of a file made confidential by statute or court rule, and includes

- (i) diversion records. MCL 722.821.
- (ii) the separate statement about known victims as required by the CVRA. MCL 780.751.
- (iii) testimony taken during a closed proceeding. MCR 3.925(A)(2); MCL 712A.17(7).
- (iv) dispositional reports. MCR 3.943(C)(3); MCR 3.973.(E)(4).
- (v) biometric material required to be maintained. MCL 28.243.
- (vi) reports of sexually motivated crimes. MCL 28.247.
- (vii) test results of those charged with certain sexual offenses or substance abuse offenses. MCL 333.5129; and the Social File.*

Petitions that the court has not authorized for filing do not fall within the definition of “records” in and are therefore “confidential files.”

***The Social File includes materials such as:**

- (i) youth and family record fact sheet
- (ii) social study
- (iii) reports (such as dispositional, investigative, laboratory, medical, observation, psychological, psychiatric, progress, treatment, school, and police reports)
- (iv) DHS records
- (v) correspondence
- (vi) victim statements, and
- (vii) information regarding the identity or location of a foster parent, preadoptive parent, or relative caregiver, or juvenile guardian. MCR 3.903(A)(3)(b).

Note: No provision of the Juvenile Code makes a juvenile probation or court officer's file confidential. Your file may contain case notes and copies of records whose confidentiality is protected by other laws. MCL 791.229 contains a "probation officer's privilege," but that is only applicable to Department of Corrections probation officers.

The social records may be destroyed three years after entry of the order terminating jurisdiction of that person or when the person becomes 18 years old, whichever is later. MCR 3.925(E)(3)(c).

Access to Confidential File

Confidential files are to be made accessible only to persons who have a legitimate interest. MCR 3.925(D)(2). In determining whether a person has a legitimate interest, the court must consider:

- the nature of the proceedings
- the welfare and safety of the public
- the interests of the juvenile
- any restriction imposed by state or federal law

Access to Drug or Mental Health Treatment Court File

Records regarding the participation of a juvenile in a mental health court are closed to public inspection and are exempt from public disclosure under the Freedom of Information Act (FOIA, MCL 15.231), but are open, for limited purposes, to courts, the Department of Corrections, law enforcement personnel, and prosecutors. MCL 600.1098(5); MCL 600.1098(7).

ACCESS TO RECORDS OF CLOSED PROCEEDINGS

Delinquency Cases

If a hearing is closed to the public, the records of the hearing shall only be open by order of the court to persons having a legitimate interest. MCL 712A.28(2).

Juvenile Diversion Cases

Diversion records are "confidential files" open only to law enforcement agencies, court intake workers, and persons having a legitimate interest. MCL 722.827; MCL 722.828(1)-(2) and 722.829(1); MCR 3.903(A)(3)(a)(i).

Documents and other materials made confidential by court rule, statute, or order of the court must be designated as confidential and maintained to allow only authorized access. MCR 8.119(D)

Permanent Record of Cases

The court is required to preserve several records of cases heard on the formal calendar. The court is required to retain the register of actions, and if the juvenile was represented by an attorney or waived representation. MCR 3.925(E)(3)(d).

Use of Evidence and Records in Subsequent Proceedings

Evidence regarding the disposition of a juvenile and evidence obtained in a dispositional proceeding shall not be used against the juvenile, except in a subsequent case against the juvenile under the Juvenile Code. MCL 712A.23.

DESTRUCTION OF RECORDS**Destruction of a File Does Not Negate, Rescind, or Set Aside the Adjudication**

Under MCR 3.925(E)(1), the court may, at any time for good cause, destroy its own files and records, other than an adjudicated offense described in MCL 712A.18e (2).

Diversion Records

Diversion records may be destroyed after the juvenile's 17th birthday. MCR 3.925(E)(3)(a).

Consent Calendar Records

- 1) Upon successful completion, the court shall close the case and may destroy all records of the proceedings. MCR 3.932(C)(7).
- 2) The court may destroy all files after the juvenile becomes 17 years of age or after dismissal from court supervision, whichever is later, unless the juvenile had a subsequent formal calendar action. MCR 3.925(E)(3)(b).

Probation Case Files

The court may destroy the records in probation case files pertaining to a juvenile three years after an order terminating jurisdiction or when the juvenile becomes 18 years of age, whichever is later. MCR 3.925(E)(7).

Other Juvenile Records

Except for diversion and consent calendar records, the court is permitted destroy all the files and records pertaining to a person's juvenile offenses when the person becomes 30 years old. MCR 3.925(E)(3)(c).

The court must destroy the records in traffic and local ordinance case files opened by issuance of a citation pursuant to the motor vehicle code or a local corresponding ordinance when the person becomes 30 years of age. MCR 3.925(E)(3)(c).

Register of Actions

A "register of actions" must not be destroyed. MCR 3.925(E)(2).

Questions for Review:

What does the court rule consider to be a “record” of the family division?

What court records can the general public access?

What is a confidential file?

What is a social file?

Who may access confidential files?

What are the specific provisions related to the records of a juvenile who successfully completes a drug treatment court?

What records may be destroyed, and at what point?

Chapter 12: Ethics

Ethics

Specific guidelines for juvenile probation officers accompany the Michigan Supreme Court's "Model Code of Conduct for Court Employees". Check with your court administrator or chief judge to see if your court has adopted a code of conduct.

The Model Code of Conduct for Michigan Court Employees

All employees in Michigan's courts hold highly visible positions of public trust. We must conduct our business in an environment and in a manner that favorably reflects the ideals consistent with the fundamental values of the Michigan judicial system, as identified by the Michigan Supreme Court. These values include: fairness, accessibility, accountability, effectiveness, responsiveness, and independence. Our actions at all times should uphold and increase the public trust and confidence in the judicial branch, reflect the highest degree of integrity, and demonstrate commitment to each principle embodied in this model code.

Canon One
**IMPROPRIETY OR THE
APPEARANCE OF
IMPROPRIETY**

I will avoid activities that could cause an adverse reflection on my position or the court.

Canon Two
ABUSE OF POSITION

I will not use or attempt to use my position to secure unwarranted privileges for myself or others.

Canon Three
IMPARTIALITY

I will provide impartial treatment to all persons interacting with the court.

Canon Four
**PROPER USE OF PUBLIC
RESOURCES**

I will use the resources, property, and funds of the court judiciously and solely in accordance with prescribed procedures.

Canon Five
DUTY TO DISCLOSE

I will respectfully disclose information required by the court.

Canon Six
**CONFIDENTIALITY &
DISCRETION**

I will not disclose confidential or discretionary information gained through my court employment to any unauthorized person.

Canon Seven
DISCRIMINATION

I will not discriminate on the basis of race, color, religion, national origin, gender, or other protected group.

Canon Eight
**POLITICAL
ACTIVITY**

I am free to participate in political activities during nonworking hours as long as such activity does not use or appear to use my position or court in connection with such activities.

Canon Nine
DUTY TO SERVE

I will carry out my responsibilities to litigants, coworkers, and all others interacting with the court in a timely, diligent, and courteous manner.

Canon Ten
COMPETENCY

I will actively pursue educational opportunities to improve my professional knowledge, skills, and abilities in order to provide quality service to the court and the public.

Guidelines for Juvenile Probation Officers

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

Canon One
**IMPROPRIETY OR
THE
APPEARANCE OF
IMPROPRIETY**

Probation officers are highly visible and should conduct themselves in a way that instills public trust and confidence. Their actions reflect not only on themselves, but the court as well. Improper behavior or the appearance of improper behavior may compromise the integrity of the court. Activities a probation officer engages in that are improper or may be perceived as improper include:

- Violating federal, state, or local laws and regulations. Probation officers shall recognize that probationers have legal rights regarding new substantive offenses and apart from the issue of a probation violation.
- Entering into a contract directly or indirectly for services, supplies, equipment, or with a probationer, probationer's family, law enforcement, service provider etc.
- Outside employment that may conflict or appear to conflict with the employee's job duties. Seek approval from the appropriate authority before accepting outside employment.
Note: No form of outside employment shall be performed utilizing the resources of the court and shall not require or induce the employee to disclose information acquired in the course of his or her official duties.
- Probation officers shall not conduct financial or business dealings with probationers or their families.
- Probation officers shall not receive any personal benefit from probationers ordered to perform work to pay off fines and costs or as a consequence for failure to follow rules set up by the court. For example, if a probationer is ordered to complete two hours of community service, that service may not be filled or reduced by washing the probation officer's car.

Canon Two
**ABUSE OF
POSITION**

The use of the real or apparent power of a position as a probation officer to personally benefit the probation officer or someone else is prohibited. Probation officers should never use their position to secure privileges, gifts, special favors, or exemptions. Generally, these would be special considerations given by others to the probation officer specifically because of his or her position as a probation officer. The solicitation or acceptance of a gift, favor, or additional compensation can give the impression that something will be done in return for the donor. This contravenes the core ideals of the judiciary.

Canon Three
IMPARTIALITY

A probation officer shall not attempt to take advantage of his or her access to judges and court files to further any personal interest, or engage in *ex parte* discussions.

The official actions of a probation officer should not be affected or appear to be affected by kinship, rank, position, or influence of any party or person involved in the court system. Many times relationships place temptation upon the employee to provide special service or nonservice. Differential treatment in any of these situations undermines the integrity of the probation officer and the judicial system.

Probation officers should strive for bias-free behavior. They should be aware of different cultures and personal bias. A probation officer should understand and be mindful of both positive and negative bias. Probation officers should not knowingly become socially, romantically, or sexually involved with probationers or their families. Any such involvement should be immediately reported to a supervisor.

Probation officers need to be able to provide impartial and understandable answers to the public's questions in an efficient manner, without providing legal advice. Only court employees who are attorneys licensed to practice law in the jurisdiction and who have received specific authorization of the chief judge/immediate supervisor may give legal advice.

Canon Four
**PROPER USE OF
PUBLIC
RESOURCES**

Probation officers, like all court employees, are stewards of public resources. A probation officer shall use the resources, property, and funds judiciously and solely in accordance with prescribed procedure. Pitfalls include temptations such as personal phone calls at the court's expense, personal use of government property (such as office supplies, printers, computers, vehicles, etc.). The time a probation officer is paid to work is also a public resources. Probation officers should refrain from conducting personal business on work time, including the time spent traveling to or from home visits in a county vehicle, or when being reimbursed by the county for mileage.

Canon Five
**DUTY TO
DISCLOSE**

A probation officer should expect coworkers to abide by the canons set out in this code. A probation officer shall report violations of this code or attempts to compel one to violate this code.

Probation officers must inform the appropriate authority if he or she is arrested in any jurisdiction or involved in any pending legal action at the court of employment.

When required, probation officers will dutifully disclose all financial interests and dealings.

Canon Six
**CONFIDENTIALITY
AND DISCRETION**

Although most court records are public, some are nonpublic and cannot be released. Probation officers need to understand the types of cases, and documents that are considered confidential. Confidential information should never be disclosed to any unauthorized person for any purpose.

Sensitive information acquired by probation officers in the course of performing their official duties should never be revealed until it is made a matter of public record. Even when the information becomes public, probation officers should exercise a great deal of discretion.

Probation officers shall maintain the integrity of private information and use reasonable efforts to seek only that personal information that is necessary to perform their responsibilities.

Sometimes breaches of confidentiality do not involve intentional disclosures of official court records. Some are the result of innocent and casual remarks about pending or closed cases, about probationers, or about juries, which could give attorneys, litigants, reporters, and the public confidential information. Such remarks can seriously compromise a case or a person's standing in the community. Probation officers should discuss cases only for legitimate reasons. Probation officers shall treat personal or sensitive information with the same discretion that one would wish others to have if one were involved in a similar case. Examples of confidentiality issues are not limited to cases. Personnel, probation, health records, and information accessed through the Law Enforcement Information Network (LEIN) or the Judicial Data Warehouse (JDW) have confidential limitations.

Probation officers should guard against being overheard when discussing legitimate confidential information.

Probation officers should consult the nonpublic and limited access chart developed by the SCAO to assist in determining if information is public. The chart is available at the following link:

http://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cf_chart.pdf

Canon Seven **DISCRIMINATION**

A probation officer shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin. Essential to the administration of justice is allowing equal access and treatment for all. Every day probation officers are called upon to assist people, and it is their responsibility to provide customers and coworkers with courteous service, regardless of the individual's race, religion, gender, national origin, political activities, etc. Discrimination can come in varying forms (words and actions), yet probation officers should be aware that no form of discrimination is acceptable and when discovered should be exposed and discouraged. Preferential treatment to a certain class is also discrimination.

Canon Eight
POLITICAL
ACTIVITY

A probation officer's ability to participate in the democratic process by working for a political cause, party, or candidate should not be hampered by his or her employment if done outside of working hours. This participation includes, but is not limited to, holding party membership, holding public office¹, making speeches, and making contributions of time and/or money to candidates, political parties or other groups engaged in political activity. This participation in political activity should not transcend into the workplace by the displaying of political material (i.e., literature, badges, signs or other material advertising a political cause, party, or candidate), soliciting signatures for political candidacy, or soliciting or receiving funds for political purposes. In addition, no government equipment or resources of any kind are to be used for promoting political activity in the workplace before, during, or after work hours.

Canon Nine
DUTY TO SERVE

For the court to be an effective institution, probation officers must reflect a high level of professionalism as they faithfully carry out all assigned duties and enforce the rules and orders provided by the court. Probation officers shall maintain relationships with colleagues in such a manner as to promote mutual respect and improve the quality of services provided.

Probation officers shall respect the authority and follow the directives of the court, recognizing that they are an extension of the court. Probation officers shall not engage in second guessing the court or in impugning the decisions and directives of the court. This should not be construed to limit a probation officer from maintaining his/her independence in making recommendations to the court, but reflect that once the court has made a decision the probation officer shall follow the decisions of the court.

Probation officers should respect the importance of all the elements of the criminal justice system and cultivate a professional cooperation with each segment. For juvenile probation officers, this includes, but is not limited to, law enforcement, the Department of Human Services, Community Mental Health, schools, etc. Probation officers are not to destroy, alter, falsify, mutilate, backdate, or fail to make required entries on any court records.

Canon Ten
COMPETENCY

When working within the court system, laws and rules of operation are continually changing due to legislation, court rules, administrative orders, case law, technology, advances in science and behavior change, etc. Therefore, probation officers are encouraged to take advantage of educational opportunities that will enhance their skills, advance their understanding, and allow for better service. This includes understanding the community you serve in, being culturally competent, and networking with other professionals.

¹Holding public office is acceptable unless a conflict of interest exists with employment at the court, or it is prohibited by law. An example of a conflict includes serving on the county board of commissioners whose oversight of budget and other policy issues impact the court.

SOME ETHICAL DILEMMAS YOU MAY ENCOUNTER

Residential Placement in Out-Of-State Facility

Based upon your recommendation, the court placed a juvenile in a residential treatment facility in Arizona. Once every three months you fly to the facility and stay for a couple of days. You stay in a luxury hotel. While there, the facility tells you to explore the campus and use any of the services they offer, including golf, horseback riding, and boating all at no charge. In the evening, one of the facility managers takes you to a nice restaurant for dinner, pays for the dinner, and then takes you and a group of juveniles to a professional sporting event.

What are the ethical considerations? Is it okay to fly to the facility, stay in a luxury hotel, use the services of the facility, go to dinner, and to the professional sporting event? How would this appear to the public? How would this appear to others (public/private)?

Minimum Accepted Practice:

MCR 3.943(E)(3) states:

“Before a juvenile is placed in an institution outside the state of Michigan as a disposition, the court must find that:

- (a) institutional care is in the best interests of the juvenile,
- (b) equivalent facilities to meet the juvenile's needs are not available within Michigan, and
- (c) the placement will not cause undue hardship.”

Once the court makes the decision to place a youth in a facility (whether in state or out-of-state), periodic visits should be made to allow first-hand observation of contracted services, maintain contact with the youth, and keep the youth connected to the community. Any time you are representing the court you are accountable and must be able to justify your activities to your court administrator and chief judge.

Probation officers should be sure that they are aware of the court's policy regarding probation officer's participation in activities while visiting a facility. Probation officers should discuss with their supervisor what activities are appropriate and what are not. You should understand how it appears to others (coworkers, supervisor, the public, and other agencies).

Your court's residential contracts likely specify that the facility will pay the cost of travel, meals, housing, etc. These costs should be reasonable and consistent, when practicable, with your court's travel policy. If you have any questions regarding your court's travel policy, or acceptable activities, you should consult with your supervisor, court administrator, or chief judge prior to the visit.

Best Practice: The best practice is not to accept any gifts, dinners, sporting events, or participate in free extra-curricular activities while at the facility. The focus of the visit should be the welfare of the juvenile and the adequacy of the facilities. You should limit your activities to appropriate business activities.

Job Competency

While observing a fellow probation officer explain court procedures and due process rights guaranteed to all juveniles, you notice several errors and omissions. Afterward, you advise your colleague of your observations, to which he replies: “I didn't know that, and it doesn't really matter anyway.” You know it matters to the judge, to you and other probation officers, and especially to the juveniles that come into your court. What do you do? Do you bring this to anyone else's attention? Should you have interrupted your coworker during their explanation?

Best Practice: It is important for you to bring these issues to the attention of your coworker and supervisor. Your colleague may, perhaps unwittingly, be violating probationer's due process right, contrary to longstanding U.S. Supreme Court decisions. Michigan Supreme Court Administrative Order 1985-5, as amended, requires a juvenile probation officer or caseworker to meet certain educational, experiential, and training thresholds to achieve certification. This includes knowledge of the juvenile justice system and the ability to be effective. In addition to a policy and procedures manual, there are a number of ways to keep abreast of trends and issues in juvenile justice including subscribing to various free Internet-based publications and attending trainings and seminars, as well as, various online tutorials. The most up-to-date statutes may be found on the Michigan Legislature website:

[http://www.legislature.mi.gov/\(S\(ckr5xt4543lv1k55svaf1pz2\)\)/mileg.aspx?page=home](http://www.legislature.mi.gov/(S(ckr5xt4543lv1k55svaf1pz2))/mileg.aspx?page=home) and current (as well as proposed amendments to) court rules and court of appeals and supreme court cases, may be found on the Michigan Supreme Court website (see link below). At a minimum, probation/casework staff should be given administrative time, during regular work hours, to participate in training, and should include the ability (via Internet access, streaming video, and sound cards) to access online tutorials. You should also encourage administration to provide opportunities for outside training (which also allows you to interact with professional colleagues) and regular and routine in-service trainings. Link to <http://www.courts.michigan.gov> to start your search.

Judicial Elections

Your judge is up for reelection, and while she is expected to win, this is the first contested judicial election in your court for some time. You like and respect your judge and think she should be reelected. One day, she approaches you and asks you to work on her campaign, and to start that day. In fact, she has a campaign flyer she wants to get distributed at a social function this evening, and asks you to take some time this afternoon and make the flyer look nicer by adding some graphics, and then making 100 copies to distribute. She knows you don't have time to go home and do this, or to make it to the local copy shop.

How do you respond? Would it make any difference if you could go home and do this? Would it matter if you didn't think the judge should be reelected?

Best Practice: You are welcome to work on your judge's reelection campaign, as long as you do it on your own time and with your own resources, or resources provided somewhere other than by the court. It is not ethical for your judge to ask you do this during work time (see the Code of Judicial Conduct, Canon 7), and it could be construed as illegal (see MCL 15.404 and 405). Of course, it is not as easy to do, as it is to say. Your judge is your boss and it may be difficult to say "no". If you want to work on her campaign, you may let her know of your willingness to do so, outside court hours and with outside resources. It is likely that she did not even think about the potential inappropriate use of court resources when she asked you to perform the task. The MJJ has a web-based training titled "Making Ethical Decisions" designed for the nonjudge. One module addresses judicial campaigns. Link to: <http://mjeducation.mi.gov/videos/making-ethical-decisions>

Accepting Gifts 1

As a probation officer, you invest a lot of time with a juvenile on your caseload. You set up counseling services, community service, and substance abuse treatment for the juvenile. The juvenile has difficulties while on probation, but you are consistent and fair with the juvenile. You have established a respectful relationship between you, the

juvenile, and the juvenile's parents. After a year, you recommend that the court discharge a juvenile from the jurisdiction of the court because he has made great personal progress. The court agrees and discharges the juvenile. The parents are grateful for all of the work you have done and you receive a basket of homemade cookies and a card thanking you for all you have done.

What do you do? What are the ethical implications? Does it matter if the file is open or closed? Does it matter what the gift is? Gift certificate, money, favor, service? How would your answer differ if the juvenile were 18? Would your answer change if the juvenile were still on probation? What if the juvenile has siblings that may have contact with the court?

Minimum Accepted Practice: The provisions of the Code of Judicial Conduct, Canon 5, Section C(4), prohibit judges and their family members from receiving gifts, except in certain limited circumstances. Prudence dictates that judges should require court staff under their direction to observe the same high standards to avoid any appearance that the official actions, decisions, or judgments of any court employee could be influenced by gifts (see Canon 3, Section (B)(2)). While the spirit motivating potential gifts may be appreciated, gifts are not appropriate.

Accepting Gifts 2

You attend a juvenile justice conference with fellow probation officers. Vendors are set up at the conference to market their products, facilities, and programs. When you come back from the conference, a coworker, Joe mentions that he golfed with the one of the vendors who paid for the golf. Your coworker, Jane indicates that she loves conferences because of all the free stuff. She said she went to dinner with some other probation officers and a vendor. At the end of the meal, the vendor picked up the entire bill. All you left with was a pen.

What are the ethical implications? Was it okay for Joe to accept the golf? Was it okay for Jane to accept the dinner? Was it okay for you to take the pen?

Minimum Accepted Practice: If all conference participants have access to a variety of vendors, and these vendors make small marketing items available to anyone, there is generally no problem taking some. However, the probation officer is still cautioned about displaying these items to clients, parents, and other court users. These items are distinguishable from individual benefits such as golf and dinner, which should not be accepted.

Best Practice: The probation officer should not accept any gifts or free "activities" from a vendor as acceptance of a gift implies an agreement exists between the parties; there will be an expectation of a payback. While the accepting of small items, such as pens embossed with a vendor's logo may seem innocent, using these items while employed as a probation officer may be perceived by some as a preference toward that vendor. In addition, as each juvenile justice conference participant is representing his or her court, negative behavior reflects poorly on the court and the chief judge: care must be taken to avoid any activity, which will cast doubt on a court's ability to remain bias free and impartial.

The probation officer has a duty to disclose to his/her supervisor that coworkers have accepted gifts or activities from the vendor.

Duty to Report

You have been a probation officer for five years. One of your coworkers, Mark, has been promoted to a juvenile referee position and a new probation officer, Connie, has been hired to fill the vacancy. Mark suggests that all of the probation officers go out for a drink after work on Friday to celebrate his promotion and welcome Connie to the office. You meet at a local bar and have dinner and drinks. The group is very loud and boisterous. At one point, you are discussing war stories and laughing at the crazy things that you've come across in this line of work. Mark is extremely intoxicated. When it is time to go home, you suggest that he call a cab, but he declines. He leaves the bar, hops in his car, and takes off. On Monday, you ask Mark how his weekend was. He tells you that he was arrested for drunk driving, but he's sure he can convince the prosecutor to dismiss the charge. He also tells you not to tell anyone else because he would lose his job. You are aware that probation officers stick together and this office has always had a "code of silence".

What do you do? What are the ethical considerations? Is there any issue with probation officers drinking at a local bar? Is it okay to discuss "war stories" in public? What are your ethical obligations in regards to Mark's behavior? How is Connie impacted by these circumstances?

Minimum Accepted Practice: Inform Mark that he must inform his supervisor and/or the judge of his arrest. Also, inform him that you will be reporting the incident to your supervisor and the judge. You should also report the possible breach of confidentiality that occurred during the loud and boisterous discussion of your experiences. Failure to do so may put your job at risk. The best practice is to never discuss cases and your personal experiences in public. When probation officers meet in a public place that serves alcohol, the potential for improper behavior goes up. This increases the likelihood that their actions are going to reflect poorly on the court. Even though it is legal for probation officers to drink alcohol at a bar, you must remember that the public is watching your behavior and your behavior should not create a negative image of yourself or the court. The best practice is to restrict your celebratory gatherings to private locations.

Probation officers are never to use their position to secure privileges, special favors, or exemptions. The best practice is to avoid any improper behavior that could compromise the integrity of the probation officer and the court.

(Dis)Agreeing with Judge's Order

Jim has been on probation with you for six months. He has a short delinquent history and is under the court's jurisdiction on a retail fraud charge. The day before his review hearing, he calls to tell you that he got into a fight after school. He isn't facing any additional charges and you know the other kid involved in the fight. The other kid is an instigator and you frequently have problems with him. Jim has paid all of his fines, costs, and restitution. You are recommending that the court discharge Jim from probation and before the hearing, you tell Jim that he won't be on probation after the hearing. At the hearing, the judge learns of the fight and orders continued probation as well as anger management class. After the hearing, you meet with Jim and his family. You tell the family that you are displeased with the judge and he is "not being fair and completely overreacted."

What are the ethical implications? How could you have handled this differently? Was it okay to tell Jim that he would not be on probation after the hearing? Was it okay to disagree with the judge?

Minimum Accepted Practice: Be honest and do not keep any information from the judge. It is never acceptable to undermine the judge or speak negatively of the court to a client and his/her family. Although you might not agree with the judge, your primary responsibility is to serve the court. The probation officer's responsibility is to make a recommendation to the court and the court is responsible for making the final determination. This should be communicated to the probationer and his/her family. The probation officer also needed to be upfront with the client/family to explain what was recommended, but that you have obligation to inform the court of any violations and that the judge might not see it favorably.

Cultural Competency

Your colleague, Mary, who has been with the court for several years, is extremely bright and competent. Others, including her supervisor, continually commend her work ethic. She adorns her office with religious artifacts and is never seen without a crucifix around her neck. She is often overheard bidding farewell to her probationers with the phrase "God Bless You!"

Are there any concerns with the way Mary decorates her office? Her appearance? Her speech? Should she do anything differently? Should you discuss this situation with anyone?

Minimum Accepted Practice: A probation officer may possess small pieces of commonly worn jewelry, but should remove all other religious symbols from his or her office and should refrain from engaging in religious speech.

Best Practice: The best practice is to avoid religious symbols or speech in the work place as any activity, which might imply favoritism or bias, must be avoided. Even innocent and sincere uses of religious symbols or speech may be misinterpreted by a court user who may perceive a probation officer's religious preference as, at best, uncomfortable or, at worse, invasive. Further, as a representative of the court, the probation officer must avoid activities that may affect the perceived impartiality of the court and its judge(s). Probation officers represent the court, and must display the appearance of bias free behavior. For a pamphlet describing Michigan Supreme Court Administrative Order 1990-3, see:

<http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/pamphlets/bias.pdf>

Ethics impact your daily decision-making. When questioning whether or not a certain course of action is ethical, and until such time as you are completely comfortable with the ethics, you should keep the canons and guidelines close to you for easy reference.

Questions for Review:

What are ethics?

What are the ethical canons?

How do the ethical canons impact your role as a probation officer?

What are some ethical dilemmas you may face, and how should you handle them?

Chapter 13: Interviewing, Report Writing, and Testifying in Court

Youth and families coming into court typically have little time with the judge and/or referee. It is the probation officer/caseworker with whom they will have the greatest amount of interaction. The court relies on probation officers to interview, investigate, and assess juvenile offenders and recommend appropriate dispositions.

INTERVIEWING

During the first meeting with a family, explain the court process, answer questions, and gather necessary information. It is often helpful to ask the family to provide documentation in the form of the youth's birth certificate, social security card, health insurance card, and last school report card.

It is best to conduct the initial interview with the juvenile and his family in your office. This minimizes external distractions, presents a formal beginning to the legal process, and sets the tone for probation.

You should have an outline or a written list of questions that need to be addressed. Many courts require that face sheets, which list demographic information about the family, be prepared at the time of the initial interview.

When interviewing a juvenile and his/her parents, try to ask open-ended questions that will produce responses that you can "piggy-back" on and develop into the next question.

At no time during the interview process should promises be made in regards to the outcome of probation orders that might be created by the court. Explain that information from the interview will go into a report to the judge. All information shared by youth or parents should be weighed for relevance before it is included in a report. Courts should also require that Release of Information forms be signed at this time so that you may obtain information from agencies that have dealt with the youth/family; including schools, counselors, treatment providers, special education records, and others. Release of Information forms should be as specific as possible, especially if you are seeking medical records. Health care providers are subject to Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations and are hesitant to release health care information not specifically requested. See the INFORMATION RELEASE AUTHORIZATION in the "sample forms" section at the end of Chapter 14.

Subsequent interviews prior to the disposition hearing may occur in the family's home. Contacts can also be made with the juvenile at his or her school.

Assessment

During the interview, the probation officer should be making an assessment of the juvenile and his/her family. In order to do so, a number of factors must be considered:

- 1) Offense
- 2) History
- 3) Family
- 4) Risk to community
- 5) Risk to self

Be aware of the importance of maintaining a working relationship with the youth and family. Expect that the family will be protective of the very information needed to make an accurate assessment. In some cases, families may become hostile. The key is to focus on the issues that have brought the youth before the court. The youth and family should understand that the court needs sufficient information to make an appropriate disposition.

NONVERBAL COMMUNICATION

Nonverbal communication is the process of communication achieved through sending and receiving wordless messages. It includes body language (gestures, touch, body language, posture, facial expression, and eye contact), and paralanguage (voice, tone, volume, and speaking rate). Some experts believe that nonverbal communication contributes to over ninety percent (90%) of a conversation, and the spoken word less than ten percent (10%)¹. No matter how much someone tries to control it, nonverbal behavior gives clues to true feelings. Knowing some clues can help spot someone who is not telling the complete truth and establish someone's credibility.

Possible Nonverbal Deception Indicators

The Long Pause: Deceivers use longer pauses, shorter answers, and longer times between a question and a response than someone who is merely nervous. This makes sense, because it takes longer to create a lie than to recall the truth. If you ask a juvenile whether (s)he has been drug free—assuming it is a condition of probation—and there's a long pause before his/her response, it might be an indication of deceit.

Eye Movement: Look for "microexpressions". People tend to look up to the right to visualize or create a new response, or down to the right to create the sounds of a new response. We recall information that occurred in the past by looking up to the left, or down to the left.

Excessive Gesturing and Adaptors: When people deceive spontaneously, they tend to spend more time gesturing with hands and using adaptors (such as scratching the body or playing with a pen) than someone who is just nervous. If the interviewee starts playing with a pen/pencil, scratching, etc., (s)he may be subconsciously saying something else.

Mouth, Lips, and Tongue Cues: Pursed lips may be a sign of extreme anxiety, withholding information, or aggression. Tight lips indicate the interviewee may be planning to hold the truth inside them. When someone is nervous, the mouth becomes dry and they may be licking their lips and swallowing hard to find the right words to say.

Lack of Animation: Practiced deceivers usually keep as still as possible. Being overly controlled can work against the interviewee. If you know that the person you are interviewing is normally animated, and their interview with you is stiff or controlled, they might be practicing deception.

¹ Bonvillian, N. (1999). *Language, culture and communication: the meaning of messages* (3rd ed.). Englewood Cliffs NJ: Prentice Hall.

Knapp, M.L. & Hall, J.A. (2001). *Nonverbal communication in human action*. Belmont, CA: Wadsworth

Hiding Hands: Deceivers tend to keep their hands hidden and still. Look for hands stuck in pockets, clenched together, or held behind backs. Imagine, as you are interviewing, that the other person is holding the truth in the palm of their hands, and see (s)he shows them to you.

Closed Curtains: There are “windows” at the bottom of the feet, the kneecaps, bottom of the torso, middle of the chest, the neck, the mouth, the eyes, and the top of the head. Deceivers tend to close entrances to hide the truth. Deceivers tend to cover them with clothes, turn the body away from the person they are talking to, put objects or furniture between themselves and others, and most simply, by folding their arms. For instance, if someone has their face turned toward you, but their body turned away, their windows are closed.

Withdrawn Behavior: Deceivers don’t usually feel very comfortable and so they tend to hold back and be less friendly. While it is quite usual for a probationer to be unfriendly toward their probation officer/caseworker, if they are unusually unfriendly, this may be a cue that they are deceiving.

Excessive Confidence: If the interviewee’s sound or pitch seems out of the norm, they may be practicing deception.

What they Say and How they Look Don’t Match: If, for example, someone is saying they are upset or embarrassed, but are extremely calm, or if they say nothing is wrong, and their arms are tightly wrapped around their body, they are probably practicing deception.

The Smile: A smile is the most common facial expression for masking emotions. It is often used to hide displeasure or anger. A genuine smile changes the entire face: the eyes light up, the forehead wrinkles, the eyebrows and cheek muscles rise, skin around the eyes and mouth crinkles, and the mouth turns up.

REPORT WRITING

The purpose of report writing is to provide the court with an accurate record of the interaction that occurs between the probation officer and the juvenile/family. Reports should capture relevant information. The system of reports is a narrative that chronicles the time frame between a youth’s entry into, and his/her exit from, the justice system.

VARIOUS REPORTS

THE SOCIAL HISTORY INVESTIGATION—AND CASE PLANNING

Social History/Predisposition Report/Report of Investigation

Probation officers may have a good deal of influence over the disposition of a case, so the investigation and assembling information about the juvenile into a broad picture must be both detailed and objective. The report that results is sometimes referred to as a social history, predisposition report, or a report of investigation (ROI).

Scope of Investigation

The purpose of the social history investigation is to compile information regarding the youth's life including school, family, community, psychological and psychiatric treatment, and health issues to formulate an appropriate case plan for the youth. It is important to stress to the youth and their parents that this information will not be used against them but will be used to formulate any future case plan.

I: Family

A list of the youth's siblings and parents or guardians such as employment status, military experience, and justice system contact are necessary. In addition, parents' or guardians' marital information and mother's maiden name can be helpful for future reference.

II: School

Where the youth attends school, grades, grade attending/last completed, disciplinary problems, extracurricular activities, honors or recognition, and special education certification are all important.

III: Counseling/Psychological/Psychiatric Treatment

A list of any therapists the youth has seen, prescribed medications, diagnoses, and mental health hospitalizations. It is important to get a picture of any special needs the youth may have and to insight into any mental health issues.

IV: Physical Health

Medical insurance information, name of a primary care physician, known medical problems, any injuries, and known allergies. These can become significant should the child ever be removed from the home.

V: Substance Abuse

Questions regarding the age at which the youth first used marijuana/alcohol/other, date of last use of marijuana/alcohol/other, and frequency of use are valuable.

VI: Miscellaneous

Other areas of importance are:

- History of fire-setting (arson)
- Physical or sexual abuse (victim/offender)
- Gang involvement
- Suicidal ideation/attempts
- Runaways
- Prior court involvement
- Previous out-of-home placements

The ROI is the first of what may be many reports, depending on the juvenile's progress. Probation officers must:

- Develop a detailed understanding of the juvenile
- Determine the impact of the alleged offense on the victim(s)
- Prepare and assess available options in regards to programs

At the dispositional hearing, the ROI is presented to the judge. Any statements made in the ROI may be repeated by a defense attorney, prosecutor, or the judge in open court. Do not put anything in a report that you do not want the parents to hear.

Recommended Case Plan

The ROI establishes the basis for the recommended case plan. The case plan should list the specifics of the types of interventions the probation officer believes will work best for the client and family. Examples include the following:

- 1) Probation
- 2) Counseling (individual and/or family)
- 3) Community service
- 4) Restitution
- 5) School placement
- 6) Employment

It is important to follow any standard format established by your court and address all required items. You should make sure the judge is able to easily locate information in a report.

ROIs should be clear, concise, and complete

Certain general guidelines apply to all such reports: Be sure of facts. Clearly indicate what information has been established and how.

- Include only information that has value or relevance to the decision.
- Be specific. Avoid generalized descriptions (“frequently tardy”) in favor of detailed or quantifiable facts (“tardy 13 times in October”).
- Maintain objectivity. Do not state opinions as facts. Label them as opinions and attribute them to their proper source. Confine your opinions to the summary or assessment section of the report.
- Keep report language clear, simple, and grammatically correct. Avoid jargon. Be natural in your style. Refer to the juvenile by name and yourself as “I,” rather than as the “offender” and the “officer”.
- Keep the information brief, succinct, and user friendly, so that it is capable of being quickly and easily comprehended.
- Designate information that is known only by hearsay—that is, any information that has been learned from a third party whose credibility cannot be tested by cross-examination.

Typical Components of an ROI:

- Offense information:
 - Charges substantiated
 - Additional facts developed at the adjudication hearing
 - Whether the juvenile acted alone or with others
 - Whether the juvenile acted as a leader or follower
- Role of participants and disposition of codefendants
- Motivation for offense (e.g., personal gain, retribution, chemical dependency)
- Events preceding the offense
- Condition of juvenile at time of offense (drunk, on drugs, emotional/angry)
- Whether the offense was premeditated or committed on impulse

- Time of day the offense was committed
- Whether the offense involved a weapon
- Recommendations for disposition from the arresting officer
- Juvenile's statement regarding offense
- Attitude about the offense (e.g., boastful or ashamed, defiant, or remorseful)
- Attitude and concern toward the victim
- Parental statement(s) regarding offense
- Risks the juvenile poses to the community
- Skills the juvenile needs to acquire
- The juvenile's (and the juvenile's family's) strengths, resources, and receptiveness to intervention

Greatest attention should be given to the closing summary. In this section, the probation officer justifies their recommendations. It should be assumed that the judge, referee, and attorneys will carefully scrutinize the recommendations. It is important to develop a reasonable set of recommendations or goals. These recommendations or goals must offer the youth a fair opportunity to succeed. Some probation officers will state a specific set of recommendations. Others may choose to list specific goals and objectives. In the latter case, the objectives serve as a road map to attaining the goals.

OTHER REPORTS

Quarterly Reports

Quarterly reports should include a case update, case goals, case plan, problems identified, and client contacts. Quarterly reports are not usually prepared with a court hearing in mind.

Supplemental Reports

The supplemental report can serve a variety of functions. Most often it is used as an addendum to other reports. The purpose of supplemental reports is to provide the court with updated information after a quarterly, rehearing, or a review hearing report has been completed. Supplemental reports include the following:

- Matter before the court
- Case update (additional or new information brought to the court's attention)
- Recommendations (changed or left the same)
- Support (for changed recommendation)

Dispositional and/or Probation Violation Summaries

If, while on probation, the juvenile commits another offense, then a dispositional/PV summary is prepared (not a second report of investigation). The dispositional/PV summary will bring the court up-to-date from the previous hearing. After each additional violation of probation or charge, a dispositional/PV summary would be completed.

The dispositional summary should contain the following:

- 1) Probation officer's evaluation (problem/progress, adherence to probation rules, general case update)
- 2) Victim statement (if necessary)
- 3) Recommendation and support

- 4) Case plan
- 5) Updated goals and objectives
- 6) Additions or modifications to treatment plan

Note: This format may also be used in the event that the youth is brought before the court for subsequent probation violations or a new criminal complaint.

SPECIALIZED REPORTS

Designation Reports

In designation or institutional reports, specific information is needed because the court faces the possibility of sanctioning a youth, which may involve placing in an institution or in extreme cases, in an adult facility.

There are two types of designation reports.

1. Where a judge has to decide on designation as an option
2. A designated case involving a specified offense where no designation hearing is needed

Designation Hearing Report

Juveniles can be designated for any felony and even misdemeanors, but unless they are being designated for a “specified offense”, they are entitled to a designation hearing. The designation hearing is similar to Phase II of a traditional waiver hearing. The court must determine whether or not the juvenile is designated and the report must address the weighted issues set forth MCR 3.952.

- 1) Seriousness of the offense
- 2) The culpability of the juvenile in committing the offense
- 3) Juvenile’s record of delinquency
- 4) Juvenile’s programming/placement history
- 5) The adequacy of punishment or programming available in the juvenile system

In the shorter version of the designation report, the following elements should be present:

- 1) Matter before the court
- 2) Case update
- 3) Dispositional options available
- 4) Recommendations

Sentencing Hearing Report

The designated case involving a “specified offense” requires a longer format. MCL 712A.2d(2); MCR 3.952.

- A) Matter before the court
- B) Case update
- C) Dispositional options available for a juvenile (this section should represent the possible dispositions available for the juvenile in the juvenile system, i.e. probation, day treatment, ACT 150, etc.)
- D) Recommendations: This section should contain the following:
 - 1) Should the youth stay in the juvenile system? (specify what services or placement options are available)

- 2) Should the court delay disposition of the adult sentence? (specify the adult sentence the youth is facing, if imposed)
- 3) Should the court impose the adult sentence? (specify the adult sentence based on the presentence report).

The recommendation should be followed with the rationale outlining what has worked or failed in the past. State whether it was a court-designated case or a prosecutor-designated case.

Institutional Placement Reports

Institutional reports require that the probation officer outline why he/she believes a juvenile should be placed in an institution. The structure of the report should follow the format of the supplemental report with certain modifications. The following information should be included:

- A) Matter before the court
- B) Case update
- C) Prior history
- D) Result of previous interventions
- E) Screening committee recommendation (if your county requires an administrative screening team, examine all cases where out-of-home placement may be recommended)
- F) Institutional options available
- G) Recommendations
- H) Support for recommendations
- I) Recommendations for out-of-state facility (out-of-state placement can only be made when there are no equivalent in-state placements for the court or Department of Human Services (DHS) to consider)

Closing/Dismissal Summary Report

Perhaps the most looked-forward-to report is the dismissal summary. Usually, dismissal summaries mean the youth has successfully complied with probation terms and is ready to be discharged from probation.

There are two basic forms of dismissal:

- 1) A dismissal for completion of all terms of probation
- 2) A dismissal for maximum benefits

Dismissal for successful completion of probation

This lets the court know that the juvenile has complied with every demand made on him or her by the court. It is important for the juvenile probation officer to understand that holding onto cases until everything is perfect will more than likely result in a caseload that is so large it becomes unmanageable.

Dismissal for maximum benefits

Usually implies that all programs have been tried and limited success has been achieved. In preparing a dismissal summary, emphasis is on the conditions of probation adhered to and the progress, or lack of progress, made.

Upon submission of either of these reports, the court will typically conduct a dispositional review hearing to determine whether or not the youth should be discharged from probation.

Waiver Reports

As a probation officer, you may be unlikely to have to prepare waiver reports. "Waiver" involves holding a youth accountable as an adult for their actions. There are two types of waivers that the court may perform.

1. Automatic Waiver

The prosecuting attorney has sole discretion over whether a qualified youth will be tried as an adult. In automatic waiver, a minor has to be 14 years old and have committed a serious offense. In automatic waivers, probation officers do not have a report writing responsibility. Once the prosecutor makes the decision to waive the case, it is immediately transferred to adult court.

2. Traditional Waiver

Consists of two phases:

Phase I: A probable cause hearing

Phase II: The court's determination as to whether a youth can be treated in the juvenile system.

Phase I: The court, in this phase, is seeking to establish probable cause for the waiver. If the court does not find probable cause, the proceedings will end. NO report is needed. If the court finds probable cause then a Phase II hearing date will be set.

Phase II: Criteria for Waiver

During Phase II, the court must make the critical determination as to whether a minor can remain in the juvenile system or be tried as an adult in the adult system. The probation officer has a major responsibility to provide the court with all necessary information to make such a decision. The probation officer, in addition to preparing a report, may also be required to testify about the contents of this report. As with designation reports, the specifics may vary from court to court, however, important elements must be present, including:

- A) prior record and character of child (physical and mental maturity as well as pattern of living)
- B) seriousness of offense
- C) pattern of offenses (if the offense is part of a repetitive pattern of offenses, indicating that family division services have been unsuccessful)
- D) the relative suitability of programs and facilities available to the juvenile and the court for the child in the juvenile system and the adult system
- E) whether the best interest of the public welfare and the protection of the public security generally require the juvenile to stand trial as an adult

Because Phase II represents a critical stage, the probation officer must be thorough in their examination of the criteria. The court usually gives the probation officer wide latitude to conduct their investigation. This may include interviews with all relevant individuals in the child's life: family members, school officials, classmates, codefendants, detention staff, victims, and other agencies.

COMMONALITIES OF ALL REPORTS

- A) Set time frames that include months, day, and date when certain requirements or probationary orders are to be completed.

- B) Set realistic goals for the juvenile. Perhaps it is unreasonable to consider that a juvenile can complete 200 hours of community service work, or for a 13-year-old with limited assets to pay \$1,000 in restitution within six months.
- C) Try not to impart your values on the youth you work with. For example, a probation officer speaking to a juvenile who is skipping school was overheard to say, "You will never amount to anything if you don't complete high school." That statement was made in front of a parent who did not have a high school diploma.
- D) Be honest with the parents and the juvenile regarding the recommendations and statements presented to the court.
- E) Reports should tell a story in as few words as possible. Stick with the "who, what, where, and when" concept.
- F) Your next report should pick up where your last one left off. Reports may be read by others. Attorneys don't know any history other than what clients have told them. Your report is very important.
- G) Greatest attention should be given to the closing summary of your report. Justification of your position, especially in contested matters, will be carefully scrutinized.
- H) Reports must be fair and accurate. Information contained in them becomes part of the record.
- I) The probation officer must, at all times, be prepared to testify about statements contained in the report.
- J) Reports must be done in a timely and professional manner. In doing so, the probation officer ensures that the record of a youth meets all the criteria that a given court requires.

TESTIFYING IN COURT

TWELVE TIPS ON TESTIFYING IN COURT

ONE: Appear and Behave Professionally

This applies both on the witness stand and off. You never know who is "sizing you up," while you're waiting in the hall.

TWO: Be Prepared

This not only increases your effectiveness as a witness, it helps alleviate any anxiety you may feel:

1. Review – but don't memorize – written documents (statements, reports, petitions, etc.) about which you will be testifying.
2. Familiarize yourself with the entire file. You can bring notes with you to refer to on the stand, but be aware that you may be asked to submit them to the court, and make sure you bring copies for the judge and the attorneys. It is always important that you have gone over your report and that you are completely confident in your recommendations.
3. Taking several minutes prior to court to speak with the parents and to speak with the juvenile, in regards to your recommendations, will be well worth it if you are aware of any concerns or objections that they have prior to you getting on the stand.
4. Before the trial starts, walk in to the courtroom and familiarize yourself where the witness chair is located and the path you need to take to get to it. This enables you to walk directly to the stand in a forthright manner and be sworn in.

THREE: Dress Professionally

Studies have shown that blue for men and black for women are the most appropriate colors for "looking believable." Men and women should dress in a conservative fashion. Avoid flashy colors, ties, and wear minimal jewelry.

FOUR: Speak Clearly, Distinctly, and with Conviction

When you are sworn in, look at the judge and say, in a loud, clear voice, "I do". Look at the person who is asking you the question. Do not exaggerate. Do not become argumentative, abrasive, or hostile. Do not nod. If you nod this will cause the court reporter and the judge to tell you to answer audibly and make it look like you're not sure what you're doing.

FIVE: Show Respect

When you take the stand, your attire, posture, mannerisms, choice of words, and everything else about you should reflect respect for the court and its proceedings. Address the judge as "Your Honor." Sit up straight, keep your body still, and pay attention. Keep gestures to a minimum. Keep your testimony as simple and straightforward as possible.

SIX: Listen very Carefully to the Question

Make sure you understand it before you answer.

SEVEN: Take Your Time to Answer

If either attorney objects, stop talking, let the judge rule on the objection and then continue. If the other side asks a question that you think is objectionable, pause before answering and give the other attorney a chance to object. If (s)he doesn't, answer the question. If either attorney objects, stop your answer and wait for the judge to tell you to proceed.

EIGHT: Avoid Being Combative

Let the attorneys get as nasty as they want. They're more than likely trying to "bait you." You stay cool and answer the questions.

NINE: Admit Mistakes

If you make a mistake, admit it. Don't try to cover it up. Nobody is going to hold it against you that you made a mistake, but they will certainly hold it against you if they think you're lying.

TEN: Never Memorize Your Testimony

Know your facts, but don't try to say things word for word. You will look rehearsed during your testimony and then will not be able to handle cross examination, where the questions are out of sequence.

ELEVEN: Avoid Looking at the Other Attorney when Answering Questions

This looks like you're asking for help and jurors might interpret this as a damaging question, even though your answer makes perfectly good sense.

TWELVE: Tell the Truth, the Whole Truth and Nothing but the Truth

Avoid temptation to embellish the truth just a bit. It's not necessary and if you're caught it makes your whole testimony suspect.

Questions for Review:

What is the purpose of interviewing?

What is an assessment and what factors should be considered?

What is a “social history investigation”?

What are the contents of a social history report?

What are nonverbal deception indicators and why is it important to probation work?

What are the different types of reports you may be expected to prepare?

What are the 12 keys to testifying in court?

Materials for this chapter were originally prepared by Mr. Felix Brooks (Ret.), 9th Circuit Court, Family Division; Mr. David Buck (Ret.), 30th Circuit Court, Family Division; Ms. Mary Hickman, Charlevoix County Family Court; and Ms. Jill Bade, 7th Circuit Court, Family Division. Additional material is taken from The Desktop Guide to Good Juvenile Probation Practice produced by the National Center for Juvenile Justice with funding from the Office of Juvenile Justice and Delinquency Prevention.

Chapter 14: CASE MANAGEMENT

WORKING WITH JUVENILES

In this chapter, the specific work of a juvenile probation officer/caseworker will be examined.

Dr. Forest E. Witcraft, scholar, author and scout leader in his publication "*Within My Power - The Power of One Man*" (1950), gave one of the best descriptions of the role of a probation officer. He said, "*One hundred years from now it will not matter what my bank account was, the sort of house I lived in, or the kind of car I drove, but the world may be different because I was important in the life of a [child.]*" One of the rewards of being a caseworker is the opportunity to make a difference in a juvenile's life.

Expectations of Good Caseworkers

Probation officers play many roles: Enforcer, mentor, educator, confidant, cheerleader, role model, and sometimes as a parent figure. Whatever the role, there are several expectations of juvenile officers. They include:

- 1) **Lead by Example.** Be ethical, law abiding, honest, and hard working. Youth need role models they can look up to.
- 2) **Explain All of Your Expectations.** Be very clear on the probation terms and court orders that you expect the youth to follow.
- 3) **Be Consistent.** If you tell them you will meet with them next Tuesday at 4 p.m., be there. If an emergency arises and you can't make that appointment, be sure to contact them promptly.
- 4) **Make a Connection.** Youth want to be treated as individuals. The best caseworkers are the ones who will take the time to establish rapport and take a genuine interest.
- 5) **Be Patient.** It will take time to get into the role. Don't expect perfection out of you or the juveniles. Oftentimes, it may take a year or two for a caseworker to feel comfortable in their knowledge, skills, and abilities.

Good probation case management practice must be goal-driven, performance-based, and outcome-focused

Case management, a term that encompasses the core of the probation function, is the sum of all the activities the caseworker engages in to assist the probationer toward behavior change and accountability.

The probation officer facilitates the youth's participation in the case plan, oversees the risk management component, monitors performance, and enforces compliance, while serving as a role model and a resource to the juvenile and family.

The case plan serves as the blueprint

The case plan is essentially a contract between the court/probation department, the juvenile, and their family.

The case plan should outline:

- (1) Clear goals and objectives
- (2) Activities needed to accomplish those goals and objectives
- (3) A time frame for completing each objective

If the terms of the case plan are met, the juvenile should be granted some form of completion benefit.

Every case management plan must address community safety

The case plan should specify what level of case management and security is required to address the overall risk the youth poses to the community and how the juvenile's day will be structured in productive activities.

- What behaviors must be monitored and addressed to keep the community safe?
- How will the juvenile develop internal controls so that the community will be safe during and after case management?

Probation departments should have a range of case management activities and security restrictions available including:

- Different levels of case management (low, medium, and high intensity) with minimum contact standards/reporting requirements for each level
- Probation/police surveillance teams
- Electronic monitoring
- Curfew
- Substance use testing
- Day and evening reporting program

CASE MANAGEMENT FORMS AND OTHER TOOLS OF THE TRADE

The following pages, and the samples that appear at the end of this chapter, are forms that probation officers throughout the state use with different clients and their families. Check with your court to be sure the forms are ones you can also use.

WORKING WITH SUBSTANCE ABUSING JUVENILES/FAMILIES

Alcoholics Anonymous (AA) Meeting Sheet:

This form is given to the juvenile (or a family member if ordered to attend Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings). They fill out the date of the meeting, the location of the meeting, and the time of the meeting. **The topic of the meeting is very important.** It will help you determine if they really went to the meeting. Topics should include such things as first step, acceptance, denial, serenity, anger, etc. The good thing about the "topic" area is that it is very hard to make up if they are not attending regular meetings. The signature column is to be signed by the chairperson of the meeting. Most chairpersons are used to juveniles/adults being court ordered to attend and won't have a problem signing their name and often their phone number.

Daily Inventory Sheet

This form is for those juveniles invested in the recovery process. It helps them look at how they did each day in several key areas. When using this form, have the juvenile or family member who is working on their recovery fill out their name and date. Then they can quickly check the boxes that best describe their behavior/attitude for the day. At the bottom are a couple of quick questions to answer.

Big Book Topics/Pages to Find Them

This sheet is just a reference sheet for the Big Book so a juvenile/family member would know where to look if they are struggling with a specific title. It may be best to use this sheet for **your** reference. This will help you know the “topics” of AA and give a broader idea of some things the Twelve Step programs teach.

ORGANIZATIONAL FORMS

A Monthly Calendar

This can be used to help organize the juvenile who forgets probation, counseling, and other important dates and appointments.

Probation Check List

This form is to be given to the juvenile and family with a copy put in the probation officer’s file. It is usually completed after a dispositional and/or supplemental hearing. During each meeting, it can be reviewed to check off those completed or being worked on. This can include community service hours, detention days, etc. This will also help keep you more focused on the youth’s compliance with the court order.

Probation Check-In

This sheet can be used when juveniles are going on vacation or may have moved and are just about done with probation. This can also be used with some juveniles at the end of their probation as a way to start transitioning a juvenile out of the court system.

The columns can be changed to include whatever the juvenile needs. Under the notes section, the juvenile can just write a couple of sentences about their day or what they did.

Time Management Form

To be used with those juveniles that say they “don’t have time” for the things you are asking of them. This helps them use their time for school, work, community service, counseling, etc.

School Progress Report

This form lets probation officers and parents know how the juvenile is behaving in school and the youth’s performance. Letter grades are often not as important as is being prepared for class, completing homework assignments and projects, and positively participating in class discussion. Many schools have their own version of this type of form. Ask around to find one that suits your needs. And, many schools also have electronic “real time” access. If your schools have such access, you should take advantage of it.

Family Communication Sheet

This form is for use by families where the juvenile says one thing and parent says another. This way all of it is in writing and both will sign it. This can help probation officers sort out who is more accurate and is really trying to make things better in the home.

Apology Letter

Is for use by those who need to/should write apology letters to victims. You need to make sure the victim is willing to receive an apology letter. If you are not sure, check with the victim services coordinator at your prosecuting attorney's office.

MISCELLANEOUS FORMS/IDEAS

Journal Ideas

At times, it is helpful to have juveniles' journal or write about their lives, even daily. Benefits to journaling include helping the juvenile take a few minutes out of their day to reflect on how they spent their time. Did they complete something for probation? Did they have an argument with a friend or family member? It is amazing how on one day their world seems to fall apart and the next day life is just fine again.

Some Journal Ideas:

- First assignment: Write about your court experience today. What do you think about what the judge ordered? Do you think it was fair? Was this offense worth it?
- Whom do you most admire? Why? What qualities do they possess that you respect?
- What will you be like tomorrow, next week, next year, in five years, in ten years, in twenty-five years? What will you be doing for a living? Is the behavior you are doing today getting you closer to, or further from that goal?
- What are five good qualities about you? What would you most like to change about you? Why?
- If you could be principal of your school, what would you do differently? (You can substitute parent, teacher, probation officer, judge, or anyone else in authority in his or her life).
- If you could meet anyone in the world, past or present, who would it be and why?
- If they have a particular goal they are working on, such as getting a job, have them write daily what steps they are doing to reach that goal.
- What was your day like? What good things happened? What would you change?
- Last assignment: What have you learned from probation? How will you avoid future court involvement?

Miscellaneous Ideas

- Art journaling: Let your juvenile draw paint, etc. to express how they are feeling.
- Assign books or video on topics they need help with and have them write a report.
- Allow the juvenile to help create the goals and actions in their treatment plans when possible.
- Behavior contracts: This can be simply having the juvenile and parent(s) write expectations. You can list consequences for not following-through and rewards. This can be formally typed or informally handwritten. It seems to have more validity if they have to sign their name committing to it. This will also hold up better in court with signatures and dates on it.

- Send notes of encouragement. Also, send birthday cards. Often no one else remembers his or her birthday.
- Get scholarships for teens to do art or dance classes. Encourage juveniles to pursue special interests or new challenges.
- “Debrief” with juveniles after giving any consequences. Review what they did wrong, what they could have done differently, and what they learned from it. Ask them if the offending behavior was worth the consequence.
- At the end of probation, help them make a list of things they have achieved or changed while on probation.
- Seek out mentors! Look for those workers with some success and excitement for their profession. Ask for suggestions and ideas. Remember to buy them a soda, cup of coffee, or an occasional candy bar, then they will always be glad to offer suggestions!

STUDENTS WITH DISABILITIES: INDIVIDUAL EDUCATIONAL PROGRAMS (IEPs) AND 504 PLANS

Providing case management services to youth with special needs presents an additional challenge. If the youth has an Individualized Education Plan through their school, additional services are available to assist them achieve the case plan objectives.

A BRIEF OVERVIEW

What is an Individualized Education Program (IEP)?

The Federal Individuals with Disabilities Education Act (IDEA) mandates a Free Appropriate Public Education (FAPE) for all students with disabilities. In Michigan an IEP is available for all children with special education needs, from birth through age 25.

The IEP is the specific vehicle for a disabled child's education. You must always keep in mind that parents know their child better than anyone does and the parents input during the IEP process is essential and invaluable.

State and federal laws require that a written (IEP) be developed, and reviewed at least annually, to meet a child's unique special education needs.

What Does an IEP do?

The IEP is the written individualized education program. This plan will guide the child's education for one year at a time. Important parts of the IEP are as follows:

- A) tells what the child can do at this time,
- B) tells how the child's disability affects the child's involvement and progress in the general curriculum,
- C) eligibility: tells the child's label (the child's special education label of impairment),
- D) list of the annual goals and short-term objectives,
- E) all special education related services and supplementary aids and services are listed,
- F) all timelines are listed,
- G) least restrictive environment – written rationale for placement outside general education must be included,
- H) a statement of transition needs beginning no later than age 14,
- I) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter.

How is the IEP Used to Help a Child?

The IEP is designed to meet the child's needs. Any supplementary aids and services which are necessary for the child to participate in a regular education program must be described in writing in the child's IEP. The IEP is a road map that is used to guide the child's teacher in helping the child achieve their educational goals.

Questions for Review:

What is the biggest difference between the adult and the juvenile justice system?

Why is case management the most important component of probation?

What expectations should you have of probationers?

What expectations should probationers have of you?

What are some case management ideas that can assist you in better assessing the juvenile's progress while on probation?

Materials for this revised chapter were prepared by Mr. Felix Brooks (Ret.), 9th Circuit Court, Family Division; Mr. David Buck (Ret.), 30th Circuit Court, Family Division; Ms. Mary Hickman, Charlevoix County Family Court; and Ms. Jill Bade, 7th Circuit Court, Family Division. Additional material is taken from The Desktop Guide to Good Juvenile Probation Practice produced by the National Center for Juvenile Justice with funding from the Office of Juvenile Justice and Delinquency Prevention.

SAMPLE FORMS

INFORMATION RELEASE AUTHORIZATION

I do hereby give my permission for the following agencies/organizations and their designated representatives to exchange information regarding:

Client Name

Date of Birth

Social Security No.

Name: {Probation Officer/Caseworker}

Address:

Name:

Address:

Specific Information Requested: (Only that authorized to be released)

Medical History/Treatment

Psychological History/Treatment

Treatment Summary of

Social Worker/Psychologist

Psychological Testing

Substance Abuse

History of School Performance

Other:

Exclusions/Limitations:

Purpose and/or need for disclosure and how disclosure is pertinent:
(i.e.-to develop an appropriate case plan)

This consent expires in six months, unless conditions that are more specific are set here:
(i.e. until completion of probation and dismissal)

This consent may be revoked by me in writing at any time unless the release is already in process. The recipient of this information may not re-release any of the above information without my written consent and he/she will be informed of this provision.

Signature of Client or Parent/Guardian

Witness

Date

Date

State of Michigan ____Judicial Circuit Court- Family Division _____County	PA 102 SCHOOL DISTRICT NOTIFICATION	CASE NO.
-------------------------------------------------------------------------------------------	---------------------------------------------------------	-----------------

In the matter of _____ DOB _____

G The above named juvenile has been adjudicated a temporary ward of the court. You are hereby notified that _____ is the Probation Officer assigned to his/her case, and may be reached at _____.
 (telephone number)

G The above named juvenile has been adjudicated a temporary ward of the court. You are hereby notified that he/she has been referred to the Michigan Department of Human Services for case management. The caseworker may be reached at _____.
 (telephone number)

School District: _____

Date Mailed: _____

By: _____

_____ COUNTY DELINQUENCY FACE & WORK SHEET				
Name		DOB	Soc Sec #	
Race			Case #	
Attorney Name			Attorney Phone #	
Other Children In the Home	School	DOB	Birthplace	Sex
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
Parents	Mother	Father	Other	
Full Name				
Address				
Phone				
DOB				
Birthplace				
Soc Sec #				
Marriage				
Divorce				
Deceased				
Health				
Employer				
Income				
Military Service				
Police Involvement				
Education				

Financial Benefits due Child			
Emergency Contact			
Name			
Address			
Other Agencies Interested			
1.			
2.			
3.			
Health Insurance			
Company			
Subscriber			
ID Numbers			
Dental Insur.			
Family Dr.			
Family DDS			
Child's Information			
Immunization Record			
Is Child Under Dr.'s Care?	State Reason:		
Medications			
Significant Identifying Information			
Major Illnesses/ Accidents			
Allergies			
Hospital Preference	Pregnancy, Delivery, Development:		
Mental Health Hospitalizations			

School Information	Name of School:
Grade	Attendance:
Special/Regular Education	
Disciplinary Problems	
Extracurricular Activities	
Child's Personal Information	
Employment	
Prior Court Involvement	
Previous out of home placements	
Marijuana use	Age at 1st use: Last Use: Frequency of Use
Alcohol use:	Age at 1st use: Last Use: Frequency of Use:
Other Substance use	Type: Age at 1st use: Last Use: Frequency of Use:
History	
Fire-setting	
Physical abuse	Victim: Offender:
Sexual abuse	Victim: Offender:
Gang Involvement	
Runaway	
Tattoo's/Other Identifying Marks	

Comments:	
------------------	--

AA MEETINGS

[illegible]

DAILY INVENTORY OF:

Understanding that I AM NOT PERFECT, I review today _____,

Have I made an effort to live this day, by my will or “Higher Power’s” way?

MY WILL		HIGHER POWER’S WILL	
Selfish & self-seeking			Interest in Others
Dishonesty			Honesty
Frightened			Courage
Inconsiderate			Considerate
Pride			Humility
Greedy			Giving or Sharing
Jealous			Helped others
Anger			Calm
Envy			Grateful
Gluttony			Moderation
Impatient			Patience
Intolerant			Tolerance
Resentment			Forgiveness
Hate			Love (concern for others)
Harmful acts			Good Deeds
Doubt			Faith
Suspicion			Trust

Did I read the Big Book today?

What pages or chapters?

Do I owe anyone an apology? If yes, who and why?

What could I have done better?

BIG BOOK TOPICS/PAGES TO FIND THEM

Acceptance	14, 30, 449, 452
Admission	25, 72-73
Aloneness	17, 89
Ambition	68, 72, 77, 127, 129
Amends	77, 82-83
Anger	60, 61, 64, 66, 67, 111
Arrogance	60, 61
Character Defects	26, 29
Compassion	108
Courage	67, 68
Depression	15, 67-68
Easy Does it	516
Envy	68, 77
Faith	14, 15, 48, 49, 52, 55
Family Relationships	66, 83, 97, 99, 100, 135
Fear	67, 68, 115, 116
Freedom	83, 84, 93, 133, 151, 553
Financial	98, 127
Forgiveness	70, 80
Gratitude	132
Growth	33, 63
Guilt	73
Happiness	17, 128, 129, 132-133, 151
High Power	12, 28, 30, 44-49, 51-53, 55, 62-63, 93, 98, 100, 130, 164
Honesty	58, 64, 67, 70, 72-73, 82-83, 115, 481, 482, 501, 550
Humility	12, 13, 25, 63, 72, 73, 93, 100
Illness	22, 23, 30, 84, 85, 133, 155
Inventory	25, 64-65, 69, 72-73, 86, 99-100, 126
Meditation	86-87, 164
Membership	28
Open Mind	12, 46-49, 51, 55, 62
Perfection	60, 123, 126, 127, 135
Patience	82, 90, 98, 111, 118
Promises	63, 75, 83-84, 100, 551
Rationalization	64-65, 99-100
Resentment	64, 67, 117, 119, 551
Recovery	126, 127
Sanity	22-23, 84-85, 551
Serenity	63-64, 68, 551, 552, 554
Sponsorship	58, 83
Understanding	570
Unity	17, 25
Will	44-45, 48, 52-53, 55, 60-63, 93
Willingness	12-13, 26, 36-37, 41-42, 46-47, 53, 57, 60, 69, 70, 76, 77, 79, 93, 118, 124, 253, 158-159, 162, 218, 229, 503, 550

****Note:** These page numbers correspond to the 1st through 4th editions of the Big Book.

See: <http://www.aa.org>

CALENDAR FOR MONTH OF:

[illegible]

PROBATION CHECKLIST

[illegible]

DAY OF WEEK	ATTEND SCHOOL	AA	COUNSELING
SATURDAY			
SUNDAY			
MONDAY			
TUESDAY			
WEDNESDAY			
THURSDAY			
FRIDAY			

PROBATION CHECK IN

NOTES:

SATURDAY

SUNDAY

MONDAY

TUESDAY

WEDNESDAY

THURSDAY

FRIDAY

TIME MANAGEMENT							
	SUN	MON	TUES	WED	THUR	FRI	SATUR
5 a.m.							
6							
7							
8							
9							
10							
11							
12 p.m.							
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12 a.m.							
1							
2							
3							
4							

SCHOOL PROGRESS REPORT			
Class/teacher	Was student prepared for class? Did he have paper, pencil, and books?	Did student have homework completed and turned in?	Did student participate? Did he have positive attitude for learning?
1st HOUR			
2nd HOUR			
3rd HOUR			
4th HOUR			
5th HOUR			
6th HOUR			
7th HOUR			

ADDITIONAL COMMENTS:

PARENT SIGNATURE

STUDENT SIGNATURE

FAMILY COMMUNICATION SHEET

Where am I going?

NAME:

ADDRESS:

PHONE:

What will I be doing?

When will I be going?

When will I be back?

How will I get there?

How will I get back?

Will I need money?

Will I need anything else?

CHILD'S SIGNATURE

PARENT SIGNATURE

Apology Letter Format

Date:

To: Victim's Name
Victim's Address
City, State Zip Code

Dear _____;

First paragraph: Tell the victim that you are sorry for what you did. State exactly what you did and why it was wrong.

Second paragraph: Tell them all the consequences you received for this offense. Include all that you were given at home, and from the court. Include others, such as schools, if applicable.

Third paragraph: Tell the victim what you have learned from this experience. Tell them how you will handle a similar situation differently if the future.

Sincerely,

Your Name

Remember to use your own words. The victim wants to hear from you!

(**do not use this form if the offense is sexual in nature or in some assault type cases. It is important not to revictimize the victim. You may send this to victim's counselor with consent if known.)

Weekly Checklist

- ☐ General Behaviors:
Did they follow directions & take consequences appropriately?

Child one: _____
Child two: _____
- ☐ Homework time – Is it being used wisely?
- ☐ Family Meeting Night – Go over checklist and discuss problems and always note one or more good things that happened in the week.
- ☐ Family Day - what did you spend time doing?

- ☐ Household chores:

Child one: _____
Child two: _____
Any changes that need to be made?
- ☐ Help with cooking? Who helped and who needs to do more. (“thanks for helping”, “dinner was great on Wednesday – thanks for helping” “any new suggestions for meals this week?”)
- ☐ How many times did you have dinner together this week? _____
- ☐ Computer time...discuss how it went last week and if any changes need to be made.
- ☐ Attitude in the home... any troubles or concerns?

- ☐ Counseling-did they attend? And how did it go?
- ☐ Only out time is for pre-approved events. _____
any requests for upcoming events? _____
- ☐ School – has anyone missed days and why. Any concerns about school?

WEEKLY CHECKLIST – DUE WEEKLY BY FRIDAY AT 4PM (IF I AM NOT THERE GIVE TO SOMEONE IN THE MAIN OFFICE AND CALL ME)

RECOVERY MEETINGS (MUST HAVE AT LEAST TWO)

PLEASE LIST AND EITHER HAVE SOMEONE SIGN THIS SHEET OR ATTACH THE AA SHEET TO THIS PAPER.

WHERE: WHEN: TOPIC: NAME/SIGNATURE:

30-30-30 PLAN (SCHOOL, WORK, COMMUNITY SERVICE)

PLEASE LIST WHAT TYPE OF ACTIVITY, # OF HOURS AND HAVE PERSON PRINT AND SIGN THEIR NAME

WHAT: WHEN: NAME/SIGNATURE

15: Continuum of Services and Funding

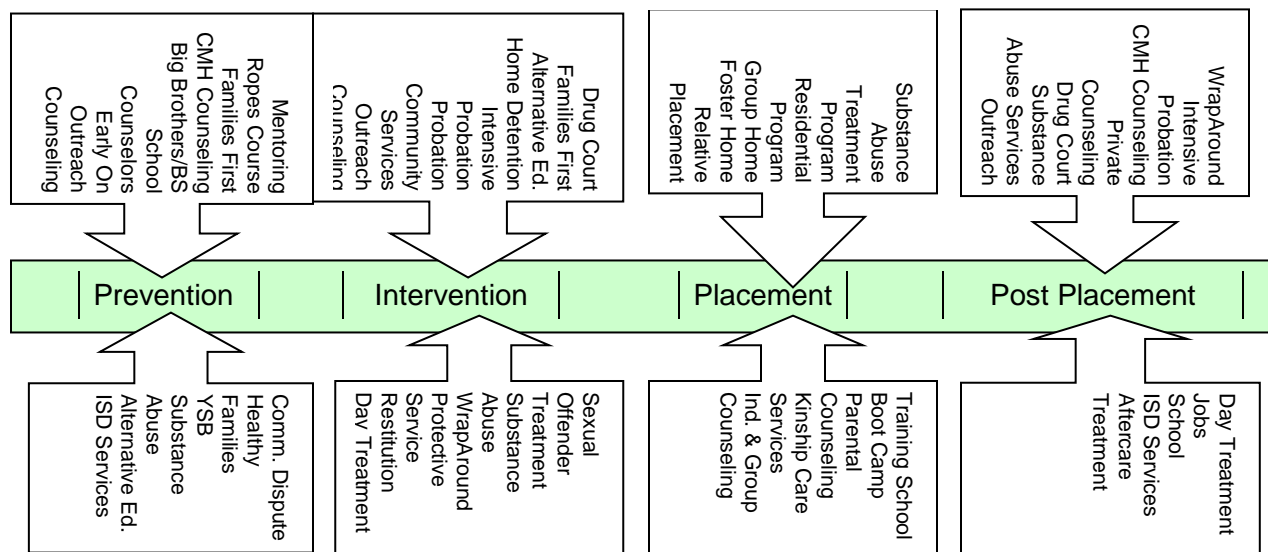
CHAPTER 15: Continuum of Services and Funding

Continuum of Services

Each jurisdiction may be vastly different, but the process of providing a continuum of services is similar. The first step is to identify the various services offered for the potential and current court population in the various phases of court involvement – prevention, court intervention, court placement, and aftercare (whether operated by the court or some agency). See sample below.

Example:

Continuum of Care



There should be a review of programs currently available, specifically the cost–benefit and the availability of future funding should be considered. Service gaps should be identified within the organizational goals.

Needs Assessment

A “needs assessment” can be a useful tool to determine the need for expanded, modified or additional services and may also indicate whether the community and other agencies would support a program.

(Material for this chapter was prepared by Mr. Robert Nida, Barry County Trial Court Administrator (Ret.))

Tools to be used to gain information about the community or a specific need include:

- **Surveys of the Community**
- **Reviewing delinquency statistics**
- **Interviewing Key Leaders and Agency Representatives**

If the conclusion is that the program should be developed, then the court should perform the following:

- design the facilities or programs, attending to detail
- staff, train, and supervise the organization
- develop the program
- develop measurable “outcomes”
- implement program
- evaluate and modify when necessary
- start the process again

Funding Overview

The State of Michigan provides financial incentives for development of alternatives to court intervention and court placements. Such programs as in-home detention, intensive probation, day treatment, Youth Service Bureaus, wraparound, intensive counseling programs, and local group homes have become cooperative programs between the county and the state.

PA 150 AND PA 220 YOUTH

State Ward - Delinquent - Act 150: A youth who has been **committed** to the Department of Human Services (DHS) under the Youth Rehabilitation Services Act (1974 PA 150). According to the following requirements:

- The ward is at least 12 years at the time of commitment by the juvenile court; and
- The offense for which the ward is committed occurred prior to the ward's 17th birthday.

State Ward – Termination of Parental Rights – Act 220: A child who has been **committed** to DHS following termination of parental rights by the family division of the circuit court. DHS acquires legal authority over the child as a result of (1935 PA 220) termination of parental rights of both parents. The court commits all parental (guardianship) responsibilities to DHS. MCL 400.203. Such a child is considered a ward of the Michigan Children’s Institute (MCI) and the superintendent of MCI is the child’s legal guardian.

Funding Sources for Delinquent (and Dependent) Youth:

There are a number of sources used to fund various court services and programs. The court must become creative in using various funding sources to continue the development of a strong continuum of care for the population it serves. The following dialogue only represents an example of the most common sources of funds.

There are currently **four common funding sources** for the care of children and youth. The child’s legal status and funding eligibility influence which funding sources the child qualifies.

FUND: Title IV-E (Neglect/Abuse & Delinquent)

A. Cost Share:

The cost share is dependent on the type of placement.
Approximately fifty percent state, fifty percent federal, for all licensed foster homes and eligible private childcare institutions.

B. Billing/Payment Procedure:

For children in placement eligible for fifty percent federal; fifty percent state funding: State pays cost and claims federal reimbursement, no county costs.

C. Description: To be eligible for Title IV-E funding, all of the following criteria must be met:

1. The child must meet specific Title IV-E eligibility criteria, including establishment of financial need and deprivation (was or would have been eligible for Title IV-E in his/her own home).
2. If the child is a court ward (not committed to the State through Public Act 150 or 220), the courts order must place the child under the "care and supervision" of the DHS.
3. The court order must state in the first hearing that it is contrary to the welfare of the child to remain in the home of the parents, and that within sixty (60) days make a determination that reasonable efforts have been made to prevent removal or to return the child to the home.
4. The child must be placed in a Title IV-E fundable placement. Title IV-E fundable placements are licensed family foster homes, low risk private child care institutions.

Fund: State Ward Board and Care – (Non-Title IV-E – Neglect/Abuse & Delinquent)

A. Cost Share: Fifty percent state, fifty percent county.

B. Billing/Payment: The state either incurs the cost of care if provided by state staff, or pays for the care if provided by a private agency, and then charges the county back fifty percent of the cost.

C. Description: This is the fund which is used for youth committed to the state and accepted through PA 150 (delinquency) or PA 220 (dependent, abused, neglected) when the youth is not eligible for Title IV-E or is not in a Title IV-E fundable placement.

Fund: Child Care Fund

A. Cost Share:

Preadoptive Care: State, one-hundred percent.

Basic Grant: State, one-hundred percent up to \$15,000.

In-Home Care: State, fifty percent; county, fifty percent.

Child Care Fund: State, fifty percent; county, fifty percent.

B. Billing/Payment: In each of the above types of care or service, county funds are used to pay the provider with state reimbursement.

- C. Description: Preadoption care – this is the charge for foster care costs by the placing agency during the release appeal period. Reimbursable charges are for foster care and are not to include administrative costs.
- D. Basic Grant (Juvenile Justice Service): Counties having a population of less than 75,000 are eligible for a basic grant of \$15,000. The basic grant program must be approved annually by DHS. The program must be new or expanded service for youth who are within or likely to come under court jurisdiction.
- E. Child Care Fund: Expenditures that qualify for the state reimbursement of fifty percent are detailed and described in the Child Care Fund Rules (R400.2001 – 400.2048) and Child Care Fund Handbook available through DHS.

Reimbursement always depends on approval of the annual plan and budget and the in-home care and basic grant components.

REIMBURSABLE CHILD CARE FUND EXPENDITURES FALL INTO THREE BROAD CATEGORIES:

1. **County-Operated Child Care Facilities:**
Reimbursement is limited to the operating cost of the facility. There is no reimbursement for capital expenditure. There are limits to the eligibility of repair expenses.
2. **Out-of-Home Care for Court Wards:**
Cost of the direct services to court wards placed in foster care, institutional care or independent living are generally reimbursable. Judicial or court administrative costs are not reimbursable.
3. **In-Home Care (approval component):**
Most costs, except judicial costs incurred in reducing out-of-home days of care, are reimbursable. These costs are limited to the following:
 - a. Children under the jurisdiction of the court, as an alternative to removal from the child's home, provided that such care is an alternative to detention or other out-of-home care and:
 - a written complaint has been received and accepted by the court
 - the expenditures are not for judicial costs
 - the caseload size or services are intensive, not more than a 1 to 20 caseload and weekly face-to-face contact
 - nonscheduled payments are not made to pay for basic family needs otherwise available through public assistance programs; or
 - the parent(s) and the youth have agreed in writing to receive in-home care services, or a temporary order has been entered placing the child in in-home care pending an adjudication hearing
 - b. The in-home care early return option may be used to accelerate the early return of a youth from family foster care, institutional care, or other out-of-home care when the case plan identifies an early return goal and the services are provided to members of the child's family.

- c. The court must comply with the administrative rule requiring a county funded probation officer/caseworker for every 6,000 youth population under the age of 19. (*Michigan Supreme Court Administrative Order 1985-5*).

County General Fund

Costs for the Court such as personnel, operations, building, due process, and other judicial costs are the responsibility of the County. An Administrative Order requires that the County pay for a professional caseworker for every 6,000 residents under the age of 19.

Resources and Funding

When considering the continuum of services, the court must look at all options for resources and funding sources. The list is as long as ingenuity and the imagination can go.

1) Intermediate School District (ISD)

Movement through the Continuum of Care provides an array of funding sources. For example, the Intermediate School District (ISD) has financial responsibilities to provide special education services from birth through the twenty-fifth birthday. Early-On provides programs to “at risk” children from birth to three years old.

2) Community Mental Health (CMH)

CMH is required to provide medically appropriate services for the Medicaid-eligible based on specific diagnoses and criteria. Adults receiving Medicaid are also eligible for treatment for a variety of psychological and psychiatric disorders. In addition, private insurance companies also provide coverage for a variety of possible services. Adults receiving Medicaid are also eligible for treatment for a variety of psychological and psychiatric disorders. In addition, private insurance companies also provide coverage for a variety of possible services.

3) Schools

Provide services through their counseling departments, and many offer alternative education programs. Schools rely on funding through attendance on count days. Probation officers should take great efforts in making sure that supervised youth are in school during these periods of time.

4) Agencies

Many programs that serve court and DHS supervised youth are offered by agencies that receive funds in part from the United Way, Strong Families/Safe Children, and Child Safety and Permanency Planning (CSPP). Such programs as Big Brothers/Big Sisters, Boys and Girls Club, mentoring, counseling programs, YMCA programs, victims’ services, Healthy Families, sexual assault counseling, kinship care programs, Families First, Wraparound, etc., can provide important services to clients.

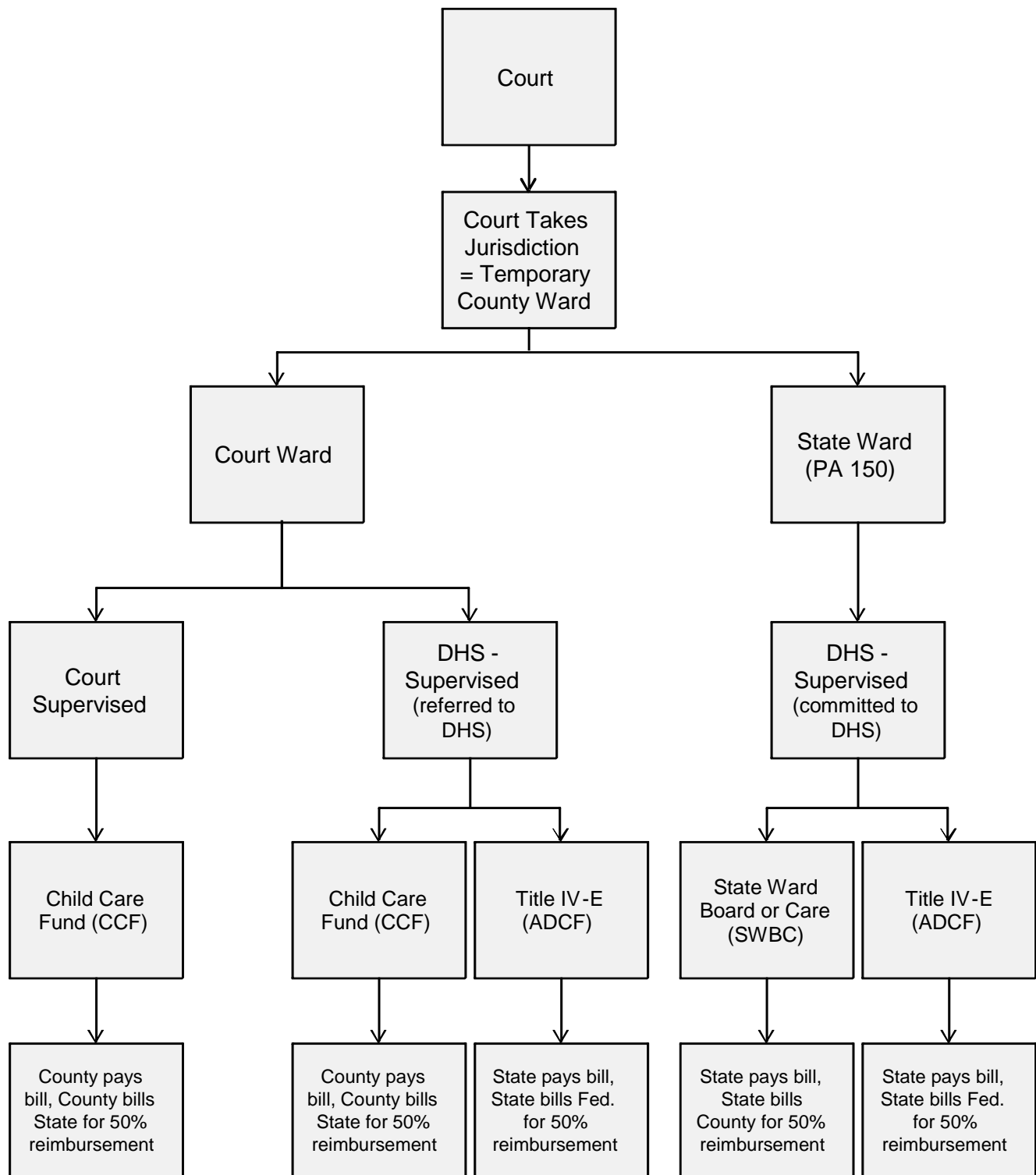
Why Consider Funding When Developing a Case Plan?

While the needs of the child should determine case planning, tight budgets require the court to utilize all possible resources to fund programs. The Child Care Fund, the General Fund and IV-E funding are key to probation, intensive home programs and placements. The court must pursue such things as restitution, community service, fines and costs, parental reimbursement, income tax intercepts, social security benefits, veteran’s benefits, and private insurance.

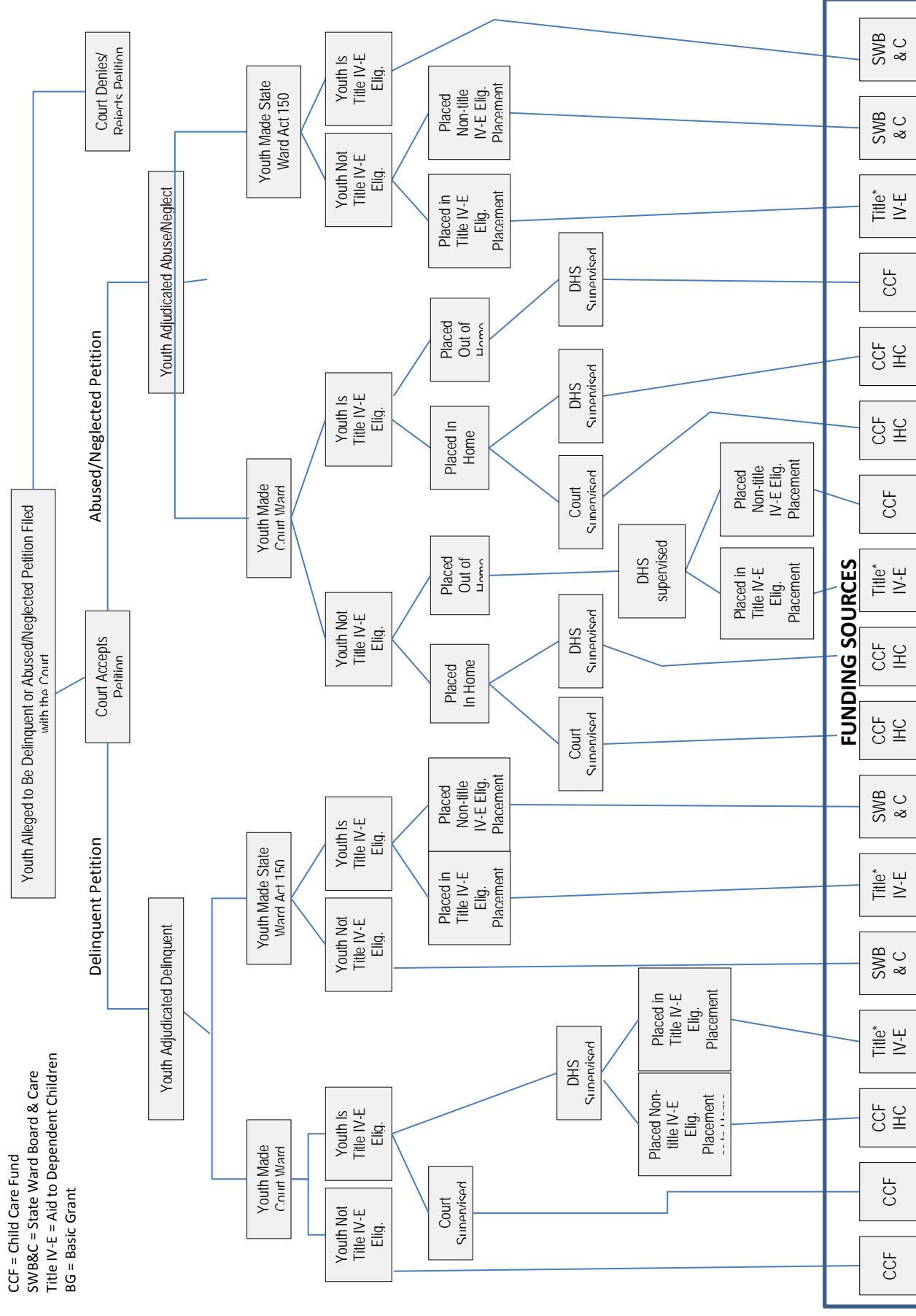
Each staff member of the family division of the circuit court is responsible for the success of the system. The court must be both effective and cost-efficient.

Charts of Services and Funding

The following charts represent the traditional methods of funding special in-home programs and placements:



Funding Source Chart #2



If the following Title IV-E eligibility requirements are met.

1. Continuous Title IV-E eligibility In Home from which removed.
2. Youth's income and property do not exceed established limits.

3. Court finding that reasonable efforts were made to prevent removal or are being made to reunify family.

4. DHS responsible for out-of-home placement selection.
- NOTE: Funding is available for both state and court wards through Performance Agreements.

Questions for Review:

What are the major components in the Continuum of Care?

Under what two (primary) Public Acts are children committed to the State for care?

What are the three broad categories of Child Care Fund expenditures?

Why is it important to consider funding when case planning?

Chapter 16: Personal Safety and Security

This chapter is intended to give a brief overview. Talk with your supervisor about your court's policies and procedures. For a more thorough understanding, please review the State Court Administrative Office (SCAO) court security standards that may be found at:
http://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cs_std.pdf

According to incident data gathered by the Center for Judicial and Executive Security (CJES), the number of security threats and violent incidents in court buildings has increased dramatically in recent years. These incidents do not include additional disruptions to court operations from medical emergencies or work-place disruptions involving only court staff. Incidents were reported throughout the state, and were not isolated to any single court type, geographic area, or size of jurisdiction.

The goal of an effective court security operation is to protect everyone using the building and who are part of the judicial process. This includes litigants, defendants, attorneys, jurors, the general public, judges, and staff. To achieve this goal, it is important to have clear written policies and procedures.

NEEDS ASSESSMENT AND FUNDING

All courts need to regularly assess their security needs. The public has come to accept the presence of metal detectors and security officers in many court facilities.

Funding must also be considered; effective security involves cost. The court and their funding unit must squarely confront these issues to determine the extent to which security will be provided, or the amount of risk that will be accepted.

RECOMMENDED COURT SECURITY STANDARDS

Security Advisory Committee

Your chief judge and court administrator should create a permanent security advisory committee to develop and assist with the oversight of a court security program.

Incident Reporting

Your court should have an incident reporting form to be used for *all* incidents, no matter how minor they may seem at the time. A policy for reporting all incidents will document either effectiveness of, or the need for changes to, security or emergency procedures or policies.

Medical Emergencies

Given day-to-day risks and the additional stress of coming into an adversarial environment, medical emergencies are likely to occur. Comprehensive plans and training of staff on how to deal with medical emergencies are essential.

First aid kits and universal precaution kits (for the handling and cleanup of potentially infectious blood and body fluid spills) should be readily available to staff in each office or on all floors of each building. Kits should be maintained and restocked at least monthly. A specific individual should be designated to check and restock all kits.

Awareness of Your Court's Security Procedures

A new employee should be clearly informed of policies, procedures, and expectations for any assigned duties relating to security.

Communication Equipment

The court should consider purchasing communication devices for use by any court staff while in the field, or in emergency situations, or to call for assistance.

Training and Equipment for Juvenile Probation Officers who are Required to Take Probationers into Custody

Staff required to check on probationers at home, school, or work, or to take probationers into custody and transport them to court or to jail should receive training preparing them to engage in these tasks, ensuring their own safety, as well as the well-being of the probationer.

First Meeting with the Juvenile and His/Her Parents

Just walking into a courthouse makes most people nervous and anxious. The first meeting is critical to the rest of your relationship with this family and the juvenile.

- Your office or meeting space should be designed so that when meeting youth and families you will sit in a chair that is closest to an exit. In case things get hostile, you want to be able to get out of the room.
- Be sure to use all of your best communication skills. Really listen to their answers to your questions.
- Be sure that all of your intake questionnaires include questions such as:
 - 1) "Do you have any dogs at home?" "How many?" Will they be tied up when making home visits?"
 - 2) Do you have any guns in the home?" and "Does anyone hunt in the home?"
 - 3) "Has anyone in the home ever been charged with an assaultive offense?"
 - 4) "Does anyone in the home have a PPO?" (Either as petitioner or respondent).
 - 5) "Who else lives in the home?"

If You Conduct Home Visits

The more you know before going into their home, the better. It is also important to get to know your local law enforcement. Call and talk with the local city police department, sheriff's department, and even the state police. Ask them what they know about this family and their address before you go there.

If your court requires you to conduct home visits:

- Be sure your office knows where you are going and when you will return.
- It is highly recommended that all probation officers go into homes as a team of two.

- Get to know the neighborhood. If you haven't been there before, drive around the block to assess *what is going on* and *who is around*. Again, it is critical that your coworkers, office staff, or local police know where you are and when you will be back. Some offices even have a policy that their workers will call in just before going into a house and then call back when they have exited.

It is important to remember that a home or neighborhood is not safe simply because you have been there before. Be observant of the outside of the home. Mentally prepare an escape route before going in.

- Be sure to lock your car door.
- When going up to the door, listen before knocking.
- Do not stand directly in front of the door in case someone inside wants to get out before you come in.
- Refrain from entering the home if the juvenile is there alone.
- Once inside, try to stay close to exits.
- Stay in well-lit areas. Avoid spending much time in hallways, bedrooms, bathrooms, or basements.
- It is important to remember that you are a probation officer **not** a police officer. If something feels wrong, or the youth/their family are uncooperative or hostile, don't try to take them into custody or force a situation. Leave the home and call for advice from your supervisor.
- In an emergency, call law enforcement.

Transporting a Juvenile or Family Member

If you ever need to transport a juvenile, it is strongly recommended that you never transport by yourself. Always transport with another staff member or adult. If the juvenile is a member of the opposite sex, it is best to have the other worker with you of that same sex. Always have the juvenile in the back passenger seat with their seat belt on. If your vehicle doors have child safety locks, use them. Be sure that no potential weapons like an ice scraper, tools, jumper cables, etc., are in the back seat or on the floor.

De-Escalating a Situation

If the conversation is getting heated and you can't calm it down or get out, try some "empathic listening". This will require additional training, but the key is to listen to them. Ask what you can do to help. Try to change the course of the conversation. Comment on their personal interests, hunting, fishing, whatever. Try to make it sound like you have things in common with them. Your only goal here is to de-escalate the situation enough so that you can escape. Be sure to talk with your supervisor about procedures and specialized training you should have to be able to physically get out of an attacking situation. Also, remember to listen to your "gut". If you think a meeting has the potential to get hostile, schedule the meeting at your office, and alert other staff of the potential for problems.

Do not get into a power struggle with a youth or family. If they don't want to cooperate with you, or refuse, talk with your supervisor about scheduling a review hearing and let the judge make the decision. Sometimes just offering this option to a family can bring them into compliance.

Be aware of Anger Signs

- clenched fists
- a far off stare
- trembling lip
- wrinkled forehead
- elevated voice level
- change in language usage

Other Safety Tips

- Never document in your car. When you are writing, you are not paying attention to what is going on around you.
- Remember to check your backseat for unwanted passengers.

Questions for Review:

Why is security important?

What are some things your court can do to assist with your security?

What are some things you can do to assist with your own security?

Why is it important for courts to develop an incident reporting system?

What are some key issues to remember when conducting home visits?

What are some key issues to remember when transporting a juvenile and/or their family member?

Chapter 17: Drugs of Choice

This chapter is designed to familiarize you with the types of drugs juveniles are using, to identify effects, and to briefly discuss the risk to adolescents. Even as this chapter is being written, illicit manufacturers are designing new legal and illegal mood-altering substances. The reader is invited to contact the Michigan Judicial Institute (MJl) with any updated information.

Drug Schedules

Drugs, substances, and certain chemicals used to make drugs are classified into five (5) distinct categories or schedules depending upon the drug's acceptable medical use and the drug's abuse or dependency potential. The abuse rate is a factor in the scheduling of the drug; for example, Schedule I drugs are considered the most dangerous class of drugs with a high potential for abuse and potentially severe psychological and/or physical dependence.¹

Highlights on Youth: 2014 National Survey on Drug Use and Health²

This survey was initiated in 1971 and is the primary source of information on the use of illicit drugs, alcohol, and tobacco by the civilian, noninstitutionalized population of the United States aged 12-years-old or older. The survey interviews approximately 67,500 persons each year.

Among youths aged 12 and older the rate of current illicit drug use was 10.2 percent. This percentage in 2014 was higher than those in every year from 2002 through 2013. The illicit drug use estimate for 2014 continues to be driven primarily by marijuana use and the nonmedical use of prescription pain relievers.

Drug Use by Youths Aged 12 to 17

Tobacco

Across all age groups, tobacco use and cigarette use were lower in 2014 than in most years from 2002 to 2013. For example, about 1 in 8 adolescents aged 12 to 17 (13.0 percent) were current cigarette smokers in 2002. By 2014, about 1 in 20 adolescents (4.9 percent) were current smokers.

Alcohol

The percentage of people aged 12 or older in 2014 who were past month heavy alcohol users (6.2 percent) also was similar to the percentages in 2011 through 2013. However, estimates of binge drinking among people aged 12 or older did not change over the period from 2002 to 2014 (23.0 percent in 2014). Underage alcohol use (i.e., among people aged 12 to 20) and binge and heavy use among young adults aged 18 to 25 have declined over time but remain a concern. In 2014, 22.8 percent of underage people were current alcohol users, 13.8 percent were binge alcohol users, and 3.4 percent were heavy alcohol users.

¹ See the U.S. Drug Enforcement Administration webpage at <http://www.dea.gov/druginfo/ds.shtml>

² Substance Abuse and Mental Health Services Administration (SAMHSA), September 2015.
<http://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.pdf>

Marijuana

An estimated 22.2 million Americans aged 12 or older in 2014 were current users of marijuana. This number of past month marijuana users corresponds to 8.4 percent of the population aged 12 or older. The percentage of people aged 12 or older who were current marijuana users in 2014 was higher than the percentages from 2002 to 2013.

Psychotherapeutics

Nonmedical use of psychotherapeutics includes any prescription-type pain relievers, tranquilizers, stimulants, or sedatives. An estimated 655,000 adolescents aged 12 to 17 were current nonmedical users of psychotherapeutic drugs in 2014. This number corresponds to 2.6 percent of adolescents

Heroin

In 2014, 0.1 percent of adolescents aged 12 to 17 were current heroin users (Figure 12), and 0.1 percent were past year users. These percentages represent 28,000 adolescents who used heroin in the past year, including 16,000 who currently used heroin. Perhaps surprisingly, the percentage of adolescents in 2014 who were current heroin users was similar to the estimates for heroin use in most years from 2002 to 2013.

COMMONLY USED [ILLICIT] DRUGS AND THEIR EFFECTS: MICHIGAN

Alcohol

Alcohol abuse is one of the most serious substance abuse problems facing populations worldwide. It is the most commonly used and widely abused psychoactive drug in the country. Alcohol is absorbed by the stomach, enters the bloodstream, and goes to all the tissues. The effects of alcohol are dependent on a variety of factors, including a person's size, weight, age, and sex, as well as the amount of food and alcohol consumed. The street names/slang terms for it is booze, canned heat, firewater, hard-stuff, moonshine, red-eye, rotgut, tippie, toddy, scoops, and sauce.

Marijuana

Marijuana is the most frequently used illicit drug in the world today. It is a green, brown, or gray mixture of dried, shredded flowers and leaves of the hemp plant (*Cannabis sativa*). There are over 200 slang terms for marijuana, including pot, weed, grass, hay, herb, cannabis, doobie, ganja, and reefer.

The main ingredient in marijuana is tetrahydrocannabinol (THC). THC is found in all parts of the cannabis plant, including hemp. The amount of THC in marijuana determines how strong its effects will be on the user. The strength of today's marijuana is much greater than the marijuana used in the early 1970s, increasing the possibility of health problems for today's users.

Hashish (or hash) hash oil is a stronger form of marijuana. Hashish is made by taking the resin from the leaves and flowers of the marijuana plant and pressing it into cakes or slabs and smoked through an "oil rig" which is a pipe similar to a bong. This is known as "dabbing." Hash may contain five to ten times as much THC as other forms of marijuana.

Marijuana is usually smoked as a cigarette, called a joint, or in a pipe or bong. Sometimes, it will appear in hollowed-out cigars called “blunts” or “swishers” which are more dangerous because they contain the equivalent of three to four joints.

Some immediate physical effects of marijuana, along with euphoria, include red, bloodshot eyes, confusion and anxiety, loss of coordination, increased appetite, hallucinations, and a dry mouth and throat. Someone high on marijuana may seem giggly or silly for no reason and have trouble walking. Studies of marijuana’s mental effects show that the drug can impair or reduce short-term memory, alter sense of time, and reduce ability to do things that require concentration, swift reactions, and coordination.

A common adverse reaction to marijuana is the “acute panic anxiety reaction”, an extreme fear of losing control, causing panic. The symptoms usually disappear in a few hours.

Long-term regular users of marijuana may become dependent or addicted. Problem users lose interest in daily activities and report loss of energy and boredom. They may have a hard time limiting their use, may build a tolerance to the drug requiring larger amounts to get the same effect, and may develop problems with their jobs and personal relationships. Like other drug addictions, marijuana can become the most important aspect of their lives.

Medical Marihuana

In 2008, Michigan voters approved a Constitutional Amendment allowing certain individuals with a “debilitating medical condition” to use medical marihuana. There is no minimum age limit, but patients under age 18 must have the consent of their parent or guardian responsible for medical decisions. The parent or guardian must be the registered caregiver of the minor patient.

It is possible; perhaps even likely, that you may encounter a youth on probation who is also a qualified patient registered to use medical marihuana. Most courts prohibit the use of the substance while a youth is on probation. The use of medical marihuana is a statement by a physician that a patient may benefit from the use for a certain condition. Your court should have a policy on medical marihuana use.

For more information on Michigan’s Medical Marihuana Act see:
http://www.michigan.gov/lara/0,4601,7-154-27417_28150_51869---,00.html

Synthetic Marijuana,

Also known as “K2,” “Spice,” “Sence,” “Yucatan Fire,” “Skunk,” or “Genie”. It is a synthetic form of marijuana. Some people compare the effects of K2 to marijuana. The drug is legal in some states but not in Michigan. It is sold in head shops as incense although people do, more often than not, smoke it.

K2 is natural incense composed of natural herbs such as “canavalia rosea, clematis nucifera, heima salicifolia, and ledum palustre.” Various sources report that K2 also contains the synthetic cannabinoid JWH-018, which when smoked can produce intoxicative effects similar to marijuana. Only recently have drug test kits been developed to detect this synthetic compound.

K2 is "not intended for human consumption" and is intended only to be used as incense. Clearly though, the hundreds of cases across the country to poison control centers and emergency rooms indicates it is not being used as such.

K2 is an illegal substance. However, chemists are developing new strains of synthetic marijuana every day.

AN OVERVIEW OF THE TOP 10 COMMON DRUGS ANALYZED BY THE MICHIGAN STATE POLICE (MSP) TOXICOLOGY UNIT³

1.) THC:

What is THC? As previously mentioned, THC is one of many compounds (cannabinoids) found in the resin secreted by glands of the marijuana plant. THC, or tetrahydrocannabinol, is the chemical responsible for most of marijuana's psychological effects.

What are the side effects? THC stimulates cells in the brain to release dopamine, creating euphoria. It also interferes with how information is processed in the hippocampus, which is part of the brain responsible for forming new memories. THC can induce hallucinations, change thinking, and cause delusions. Space and time perception is altered. Processing of new information is impaired, which interferes with reactions to stimuli or to changes in the environment.

Acute effects kick in ten to 30 minutes after smoking and last two to three hours. Psychomotor impairment may continue after the perceived *high* has stopped. Subtle symptoms can last many hours and there is evidence that some types of impairment can last longer in heavy smokers, perhaps due to accumulation of THC in the body and the extended time it takes to clear the drug completely. THC can trigger a relapse in schizophrenic symptoms, according to the National Institute on Drug Abuse. The legal status of THC is currently changing, but has been until recently considered a Schedule I controlled substance both federally and in Michigan.

2.) Alprazolam:

What is alprazolam? Also, known as "Xanax", it is used to treat anxiety and panic disorders and for short-term relief of anxiety symptoms. It is also a Schedule IV controlled substance.

What are the side effects? It may cause drowsiness, lightheadedness, fatigue/tiredness, irritability, depression, headache, confusion, insomnia, dry mouth, constipation, diarrhea, tachycardia/palpitations, blurred vision, and nasal congestion. Alprazolam is extremely commonly prescribed. The typical dose given is low. On its own, it is not extremely impairing, but at high doses or in combination with other drugs it may be toxic.

3.) Hydrocodone:

What is hydrocodone? Known as "Vicodin or Lorcet", Hydrocodone is an opiate and narcotic analgesic similar to codeine. Opiates are also termed narcotics for their propensity to induce sleep narcotic. It is used to control mild to moderate pain and is

³ Adapted from *An Overview of Drugs Found by the Michigan State Police Toxicology Unit-2012*, Stecker, K. and Gorzelewski, K. (January, 2015). This is a list of the top 27 drugs identified by the MSP crime laboratory.

also a cough suppressant. Hydrocodone is much more potent than codeine, however. Thirty milligrams of codeine is the equivalent of about five milligrams of hydrocodone. In strength, hydrocodone is more comparable to morphine, heroin, and oxycodone. Hydrocodone has just become a federal Schedule II controlled substance due to its high addiction potential.

What are the side effects? It includes acute liver failure, lightheadedness, dizziness, sedation, nausea/vomiting. Signs of opiate intoxication such as pinpoint pupils and clammy skin may also be present during intoxication.

4.) Morphine:

What is morphine? Morphine is an opiate and narcotic analgesic and is prescribed under many formulations. It is used to treat moderate to severe pain, both acute and chronic. Short-acting formulations are taken as needed for pain.

The extended-release form of this medicine is for around-the-clock treatment of pain. This form of morphine is not for use on an as-needed basis for pain. Morphine, like other opiates, is found on federal and state Schedules II and III, depending on the formulation.

What are the side effects? Nausea, vomiting, constipation, lightheadedness, dizziness, drowsiness, sweating or respiratory depression may occur. Morphine is also the active metabolite of heroin. Heroin users will generally have only morphine present in their blood, although they may also have 6-MAM in their urine. Heroin itself is never seen.

5.) Carisoprodol:

What is carisoprodol? Known as “Soma”, Carisoprodol is a skeletal muscle relaxer that works by blocking pain sensations between the nerves and the brain. Chemically, it is unrelated to other central nervous system depressants or drugs of abuse.

What are the side effects? The usual dose of 350 mg is unlikely to engender prominent side effects other than sleepiness or drowsiness and mild to significant euphoria or dysphoria, but the euphoria is generally short lived. Carisoprodol is metabolized to meprobamate, also known as Equanil or Miltown. Meprobamate is the active metabolite and the compound responsible for the effects. They will nearly always be seen together. Carisoprodol is very commonly prescribed and often abused, and is one of the most common drugs seen by the MSP lab. However, it gets very little attention compared to opiates and illicit drugs. Carisoprodol itself is not controlled, but meprobamate is a Schedule IV controlled substance.

6.) Cocaine:

What is cocaine? It is an addictive drug derived from coca or prepared synthetically, used as an illegal stimulant and sometimes medicinally as a local anesthetic. It is a Schedule II controlled substance.

What are the side effects? Cocaine causes a short-lived, intense high that is immediately followed by the opposite—intense depression, edginess, and a craving for more of the drug. People who use it often don’t eat or sleep properly. They can experience greatly increased heart rate, muscle spasms and convulsions. The drug

can make people feel paranoid, angry, hostile, and anxious—even when they aren't high. As tolerance to the drug increases, it becomes necessary to take greater and greater quantities to get the same high. Prolonged daily use causes sleep deprivation and loss of appetite. A person can become psychotic and begin to experience hallucinations.

7.) Diazepam:

What is diazepam? Also, known as “Valium,” it is an older drug used to treat anxiety, panic attacks, insomnia, seizures, restless legs syndrome, alcohol withdrawal, benzodiazepine withdrawal, and opiate withdrawal. It may also be used before certain medical procedures to reduce tension and anxiety, and in some surgical procedures to induce amnesia. Like the other benzodiazepines, it is a Schedule IV controlled substance.

What are the side effects? Adverse effects of diazepam include anterograde amnesia (especially at higher doses) and sedation, as well as paradoxical effects such as excitement, rage, or worsening of seizures in epileptics.

8.) Diphenhydramine:

What is diphenhydramine? Diphenhydramine is an over-the-counter antihistamine found in Benadryl, Unisom and other such formulations. It is mainly used to treat allergies. The drug is FDA-approved as a nonprescription sleep aid (Unisom). It is also available as a generic or store brand medication.

What are the side effects? Dry mouth and throat, increased heart rate, pupil dilation, urinary retention, constipation, and, at high doses, hallucinations or delirium. Other side-effects include motor impairment, flushed skin, blurred vision, abnormal sensitivity to bright light (photophobia), sedation, difficulty concentrating, short-term memory loss, visual disturbances, irregular breathing, dizziness, irritability, itchy skin, confusion, increased body temperature (in general, in the hands and/or feet), temporary erectile dysfunction, excitability, and, although it can be used to treat nausea, higher doses may cause vomiting. Some side-effects, such as twitching, may be delayed until the drowsiness begins to cease and the person is in more of an awakening mode.

9.) Codeine:

What is codeine? Codeine or 3-methylmorphine (a naturally occurring methylated morphine) is an opiate used for its analgesic, antidiarrheal, antihypertensive, antidepressant, sedative and hypnotic properties. It is found in Tylenol with Codeine, Fioricet with Codeine (butalbital, acetaminophen, codeine) and in many other formulations. It is a Schedule II or III controlled substance, depending on formulation.

What are the side effects? Common adverse effects associated with the use of codeine include drowsiness and constipation. Less common are itching, nausea, vomiting, dry mouth, miosis, orthostatic hypotension, urinary retention, depression, and coughing. Codeine, like other opiates, will cause pinpoint pupils and clammy skin in intoxication.

10.) Methadone:

What is methadone? Methadone (also known as Symoron, Dolophine, Amidone, Methadose, Physeptone, Heptadon and many other names) is a synthetic opioid: it

has some of the effects of opiates, but is chemically not related to them. It is used medically as an analgesic. It has effects similar to morphine, heroin, or codeine.

Methadone is also used in the treatment of opioid dependence. Oral doses of methadone can stabilize patients by mitigating opioid withdrawal syndrome or making it more tolerable. Higher doses of methadone can block the euphoric effects of heroin, morphine, and similar drugs. As a result, properly dosed methadone patients can reduce or stop altogether their use of these substances.

What are the side effects? Side effects include: sedation, perspiration, sweating, heat intolerance, dizziness, fainting, weakness, chronic fatigue, sleepiness, exhaustion, sleep problems such as drowsiness, trouble falling asleep insomnia, and trouble staying asleep.

Methadone has become a drug of abuse in its own right and diversion is a serious problem. It is also a Schedule II controlled substance.

SOME DRUG AND ALCOHOL SCREENING AND ASSESSMENT TOOLS

There are literally hundreds of instruments designed as standardized tools to help the clinician in formulating a clinical impression.

See, for example, http://www.azdhs.gov/bhs/guidance/catsu_attach_a.pdf.

General Tools

The National Institute on Drug Abuse (NIDA) Modified Alcohol, Smoking, and Substance Involvement Screening Test, or NMASSIST, is an assessment tool that clinicians use in general health care to find out if a youth is actively using substances. This web-based tool was developed by NIDA out of a recognized need to capture statistics on drug abuse. The assessment tool is a questionnaire that asks a series of questions about the types of drugs that an individual uses and how often the substances are used; then the tool provides clinicians with a summary of whether the patient seems to be a substance abuse risk. The Substance Abuse Subtle Screening Inventory for Adolescents, or SASSI, is another general tool that measures all kinds of substance abuse specifically for adolescents.

Alcohol-Exclusive Tools

The Adolescent Alcohol Involvement Scale, or AAIS, is an assessment tool that exclusively measures a youth's behaviors when it comes to drinking alcohol. This assessment does not gauge other types of substances, such as marijuana, opiates, or painkiller medications. The AAIS asks adolescents' 14 questions around the type of alcohol that is used and the frequency that it is used. This is a self-report, meaning the AAIS is a screening tool that is used by the youth. At the end of the assessment, the youth is given a score between 0 and 79, which speaks to the level of alcohol use reported. On this scale, a 0 score would indicate that the youth is a nonuser of alcohol, whereas a 79 score would indicate the individual has a dependency to alcohol. The Adolescent Drinking Index (ADI) is another assessment tool that only evaluates alcohol usage and works similarly to the AAIS.

Diagnostic Interviews

Diagnostic interviews are assessment screening tools that address whether or not a youth has a diagnosable problem with substance abuse. The Diagnostic Interview for Children and Adolescents, or DICA, is one such tool. This interview consists of 416 items to be covered for the evaluator to determine if a youth has a substance abuse disorder. The Diagnostic Interview Schedule for Children, or DISC, is another tool that is used for the same purpose. After the interviews are conducted, the evaluator determines the appropriate course of treatment for youth who present as having a substance abuse disorder.

Multiscale Assessment Tools

A multiscale assessment tool is one that measures various depths of substance abuse in youth. These tools are self-administered, so adolescents can complete them on their own. To eliminate or minimize the potential of misrepresentation on the tool, multiscale assessment tools are developed to detect response discrepancies. Some tools may take youth an hour to complete, while others could take 20 minutes. The Chemical Dependency Assessment Profile, or CDAP, Hilson Adolescent Profile, or HAP, and Personal Experience Inventory, or PEI, are examples of multiscale assessment tools. These tools dig deep into the youth's life to understand what types of behaviors are exhibited in the youth's friends, family, whether the youth is a victim of abuse, whether the individual appears to be depressed, and other comprehensive questions that can pinpoint a substance abuse disorder.

DRUG TESTING

Biological Testing

Biological tests can be valuable instruments to determine alcohol and other drug (AOD) use, especially when such use is denied by the client. Urinalysis, breathalyzer tests, blood tests, and all other available physical tests should be considered when AOD use is not self-reported. The most objective tools for measuring progress are urine and blood tests for the presence of AODs.

Treatment

The treatment plan, developed as an important component of the clinical assessment, is reviewed, assessed, updated, and revised throughout the course of treatment. Ideally, the plan is adapted as intermediate goals are met successfully. Then, at the end of a successful process, the treatment plan evolves into a discharge plan. All treatment plans should address specific substantive issues. Among these are:

- employment, vocational, and educational needs
- housing in an environment that is free from AODs
- the juvenile's and his/her family's strengths
- medical and psychological concerns
- recovery support
- self-esteem development
- relapse prevention
- stress management
- self-help resources
- abstinence or reduced AOD use

RESOURCES

Whom Should I Contact if Someone on My Caseload has a Problem with Drugs?

Contact your local Council on Alcohol and Drug Abuse for referral assistance. You may also contact a family physician, hospital, or yellow pages for other intervention and treatment options.

The local public library and other sources can be found in the yellow and blue pages of your phone book under "drug abuse."

Access reliable information instantly from the Internet from the following sites:

The National Institute on Drug and Abuse has national statistics and the latest research findings available. <http://www.nida.nih.gov>.

The Partnership for a Drug-Free America has a drug database to help parents identify specific drugs, their effects, and drug paraphernalia. <http://www.drugfree.org>.

The Office of National Drug Control Policy publishes drug fact sheets and other information. <http://www.whitehousedrugpolicy.gov>.

Questions for Review:

What are the general findings of the 2014 National Survey on Drug Use and Health (NSDUH) survey?

What are the most commonly used/abused drugs found by the Michigan State Police?

What are some common assessment tools?

What biological testing is generally reliable?

Where can you find more resources on drug abuse?

Chapter 18: Juvenile Sexual Offenders, Assessment, and Treatment

Interest in youth who commit sexual offenses has grown in recent years, along with specialized treatment and management programs, but relatively little information about the characteristics of this group of offenders and their offenses has been available.

Characteristics of juvenile sex offenders:

According to a publication from the Center on Sex Offender Management

http://www.csom.org/pubs/needtoknow_fs.pdf, pages 6-8:

- Juveniles under the age of 18 make up just fewer than twenty percent of those arrested for sex offenses.
- More than ninety percent of the juveniles who are arrested are male.
- There is no “typical” youth who commits a sex crime.
- Exposure to physical or sexual violence in the home or community can be associated with sexually abusive behaviors among youth.
- Juvenile sex offenders appear to respond better to treatment and reoffend less frequently than adult sex offenders.
- Community supervision (probation or parole supervision) can help ensure that youth behave appropriately in the community, and participate in treatment.

Scope of This Chapter:

For a complete treatise on the laws governing sexual assault, please refer to the Michigan Judicial Institute's *Sexual Assault Benchbook*.

See <http://mjieducation.mi.gov/publications/benchbooks>

This chapter is intended to:

1. Provide an overview of the law as it relates to juvenile offenders and the Sex Offenders Registration Act (SORA),
2. Identify recent trends in assessment and treatment of juvenile sexual offenders, and
3. List various statewide and community resources available to victims of sexual assault.

More information on the Sex Offender Registry may be found on the Michigan State Police website at: http://www.michigan.gov/documents/SOR_TrngMan_66768_7.pdf.

Juvenile adjudications are not included on the public internet website; juvenile adjudications appear only on the law enforcement database. MCL 28.728(1); MCL 28.728(4)(a)-(b).

Characteristics of Juvenile Sex Offenders-Two Recent Studies

Seto & Lalumière, 2010

Adolescent sexual offending is not a simple manifestation of general antisocial tendencies. Adolescents had much less extensive criminal histories, fewer antisocial peers, and fewer substance use problems compared with non-sex offenders. Special explanations suggesting a role for sexual abuse history, exposure to sexual violence,

other abuse or neglect, social isolation, early exposure to sex or pornography, atypical sexual interests, anxiety, and low self-esteem received support.

Attitudes and beliefs about women or sexual offending, family communication problems or poor parent–child attachment, exposure to nonsexual violence, social incompetence, conventional sexual experience, and low intelligence were not different between the two groups.

The largest group difference was obtained for atypical sexual interests, followed by sexual abuse history, and, in turn, criminal history, antisocial associations, and substance abuse.

Carpentier et al., 2011

Adolescents with poor self-control tend to avoid situations of social control (supervision, discipline) and consequently tend to associate with peers who resemble them and who, like them, are likely to offend. These young people also tend to experience school difficulties (behavioral and learning difficulties), leading to school failure and dropping out of school in favor of less constraining environments.

The severity of the offenses committed appears to be more influenced by childhood trauma than by variables related to adolescent development. However, only two variables related to childhood development (sexual victimization and long-term paternal absence) predicted membership in the stable high group rather than the de-escalator group.

LISTED OFFENSES: TIER I, TIER II, AND TIER III OFFENSES

Offenses under the SORA are grouped in three categories (Tier I, Tier II, and Tier III) based on the seriousness of an offense. A *listed offense* for purposes of the SORA is a Tier I, Tier II, or Tier III offense. MCL 28.722(j).

Tier I Offenses/Offenders

Tier I offender defined

A Tier I offender is an individual who has been convicted of a Tier I offense and who is not a Tier II or Tier III offender. MCL 28.722(r).

A Single Conviction of a Tier I offense is not generally listed on the public internet website

An offender registered under the SORA because of a single Tier I conviction will only be listed on the law enforcement database; he or she will not appear on the public internet website. MCL 28.728(1); MCL 28.728(4)(c).

However, effective June 1, 2013, offenders – including juveniles – convicted of the Tier I offenses listed below began appearing on the public internet website:

- Section 145C(4) of the Michigan Penal Code (knowingly possessing any child sexually abusive material).
- Section 335A(2)(b) of the Michigan Penal Code if the victim were a minor (indecent exposure with fondling of the genitals, pubic area, or buttocks, or if a female, the breasts).

- Section 349B of the Michigan Penal Code if the victim were a minor (unlawful imprisonment).
- Section 539J of the Michigan Penal Code if the victim were a minor (surveillance of or distribution, dissemination, or transmission of recording, photograph, or visual image of individual having reasonable expectation of privacy).
- An offense substantially similar to an offense described above under a law of the federal Sex Offender and Registration and Notification Act (SORNA), also known as the Adam Walsh Act; under a law of any state or any country; or under tribal or military law.

Required reporting

After his or her initial verification or registration, a Tier I offender must report on a yearly basis, between January 1 and January 15. MCL 28.725a(3)(a). An offender who reports under MCL 28.725a(3) and who has not already paid his or her registration fee, must pay the \$50 initial registration fee (as well as a \$50 annual registration fee) proscribed under MCL 28.727(1). MCL 28.725a(6). An indigent offender may obtain a 90-day waiver of the registration fee if the offender proves his or her indigence. MCL 28.725b(3). See MCL 28.722(h) for the definition of *indigent*.

List of Tier I offenses

Tier I offenses are listed in MCL 28.722(s)(i)-(ix):

- Violation of MCL 750.145c(4) (knowing possession of child sexually abusive material).
- Violation of MCL 750.335a(2)(b) (open or indecent exposure involving fondling) *if the victim is a minor*.
- Violation of MCL 750.349b (unlawful imprisonment) *if the victim is a minor*.
- Violation of MCL 750.520e (CSC-IV) or MCL 750.520g(2) (assault with intent to commit CSC-II) *if the victim is age 18 or older*.
- Violation of MCL 750.539j (voyeurism) *if the victim is a minor*.
- Any other violation of Michigan law or a local ordinance of a municipality, other than a Tier II or Tier III offense, that by its nature constitutes a sexual offense against a minor.
- Offense committed by a person who was a sexually delinquent person (MCL 750.10a) at the time the offense was committed.
- Attempt or conspiracy to commit a Tier I offense.
- Offense substantially similar to a Tier I offense that is specifically enumerated under federal law in 42 USC 16911, under the law of any state or any country, or under tribal or military law.

Length of registration for Tier I offenders

A Tier I offender must register under the SORA for 15 years. MCL 28.725(10). The registration period does not include any period of imprisonment for committing a crime or any period of civil commitment. MCL 28.725(13).

Tier II Offenses/Offenders

Tier II offender defined

A Tier II offender is:

- an individual who is a Tier I offender who is subsequently convicted of another Tier I offense, or
- an individual who is convicted of a Tier II offense and who is not a Tier III offender. MCL 28.722(t)(i)-(ii).

Tier II offender information on the public website

A Tier II offender will appear on the public internet website. See MCL 28.728(2); MCL 28.728(4).

Required reporting

After his or her initial verification or registration, a Tier II offender must report semiannually, once in January (no earlier than January 1 and no later than January 15), and once in July (no earlier than July 1 and no later than July 15) of each year.

MCL 28.725a(3)(b). An offender who reports under MCL 28.725a(3) and who has not already paid his or her registration fee, must pay the \$50 initial registration fee (as well as a \$50 annual registration fee) proscribed under MCL 28.727(1). MCL 28.725a(6). An indigent offender may obtain a 90-day waiver of the registration fee if the offender proves his or her indigence. MCL 28.725b(3). See MCL 28.722(h) for the definition of *indigent*.

Length of registration

A Tier II offender must register under the SORA for 25 years. MCL 28.725(11). The registration period does not include any period of imprisonment for committing a crime or any period of civil commitment. MCL 28.725(13).

List of Tier II offenses

Tier II offenses are listed in MCL 28.722(u)(i)-(xii):

- Violation of MCL 750.145a (soliciting a minor under the age of 16 for an immoral purpose).
- Violation of MCL 750.145b (soliciting a minor under the age of 16 for an immoral purpose, second offense).
- Violation of MCL 750.145c(2) (creation/production of child sexually abusive material) or MCL 750.145c(3) (distribution/promotion of child sexually abusive material).
- Violation of MCL 750.145d(1)(a) (use of the Internet to commit specific crimes against a minor victim) except for a violation arising out of a violation of MCL 750.157c (person at least age 17 who induces a minor under the age of 17 to commit a felony).
- Violation of MCL 750.158 (sodomy) *if the victim is a minor*, unless either of the following applies:
 - A. All of the following:
 - Victim consented to conduct constituting the violation.
 - Victim was at least age 13 but less than age 16 at the time of the violation.

- Individual is not more than four years older than the victim.

OR

B. All of the following:

- Victim consented to conduct constituting the violation.
- Victim was age 16 or age 17 at the time of the violation.
- Victim was not under the custodial authority of the individual at the time of the violation. See MCL 28.722(c) for the definition of custodial authority.

- Violation of MCL 750.338 (gross indecency between males), MCL 750.338a (gross indecency between females), or MCL 750.338b (gross indecency between males and females) if the victim was at least age 13 but less than age 18 at the time of the violation.

This provision does not apply if the court determines either:

A. All of the following:

- Victim consented to conduct constituting the violation.
- Victim was at least age 13 but less than age 16 at the time of the violation.
- Individual is not more than four years older than the victim.

OR

B. All of the following:

- Victim consented to conduct constituting the violation.
- Victim was age 16 or age 17 at the time of the violation.
- Victim was not under the custodial authority of the individual at the time of the violation. See MCL 28.722(c) for the definition of custodial authority.

- Violation of MCL 750.448 (soliciting prostitution) *if the victim is a minor*.
- Violation of MCL 750.455.
- Violation of MCL 750.520c (CSC-II), MCL 750.520e (CSC-IV), or MCL 750.520g(2) (assault with intent to commit CSC-II) *if the victim is at least age 13 but under age 18*.
- Violation of MCL 750.520c (CSC-II) *if the victim is age 18 or older*.
- Attempt or conspiracy to commit a Tier II offense.
- Offense substantially similar to a Tier II offense that is specifically enumerated under federal law in 42 USC 16911, under the law of any state, or any country, or under tribal or military law.

Tier III Offenses/Offenders

Tier III offender defined:

A Tier III offender is an individual who is a Tier II offender who is subsequently convicted of a Tier I or Tier II offense, or an individual who is convicted of a Tier III offense. MCL 28.722(v)(i)-(ii).

Tier III offender information on the public website

A Tier III offender will appear on the public internet website. See MCL 28.728(2). MCL 28.728(4).

Required reporting

After his or her initial verification or registration, a Tier III offender must report quarterly, between the first and fifteenth day of every April, July, October, and January of each year. MCL 28.725a(3)(c). An offender who reports under MCL 28.725a(3) and who has not already paid his or her registration fee, must pay the \$50 initial registration fee (as well as a \$50 annual registration fee) proscribed under MCL 28.727(1). MCL 28.725a(6). An indigent offender may obtain a 90-day waiver of the registration fee if the offender proves his or her indigence. MCL 28.725b(3). See MCL 28.722(h) for the definition of *indigent*.

Length of registration

A Tier III offender must register under the SORA for life. MCL 28.725(12).

List of Tier III offenses

Tier III offenses are listed in MCL 28.722(w)(i)-(viii):

- Violation of MCL 750.338 (gross indecency between males), MCL 750.338a (gross indecency between females), or MCL 750.338b (gross indecency between males and females) *if the victim is under age 13*.
- Violation of MCL 750.349 (kidnapping) *if the victim is a minor*.
- Violation of MCL 750.350 (enticing a child under age 14 with intent to detain or conceal the child from his or her parent, guardian, or adoptive parent).
- Violation of MCL 750.520b (CSC-I), MCL 750.520d (CSC-III), or MCL 750.520g(1) (assault with intent to commit CSC involving penetration). This provision does not apply if the court determines that the victim consented to conduct constituting the offense, that the victim was at least age 13 but under age 16 at the time of the offense, and that the individual is not more than four years older than the victim.
- Violation of MCL 750.520c (CSC-II) or MCL 750.520g(2) (assault with intent to commit CSC-II) *if the victim is under age 13*.
- Violation of MCL 750.520e (CSC-IV) *if the individual is age 17 or older, and the victim is under age 13*.
- Attempt or conspiracy to commit a Tier III offense.
- Offense substantially similar to a Tier III offense that is specifically enumerated under federal law in 42 USC 16911, under the law of any state or any country, or under tribal or military law.

Overview of Select Portions of the Sex Offender Registry Applicable to Juvenile Offenders

Juvenile offenders not convicted as adults must register under the SORA under two circumstances:

- 1) a juvenile order of disposition was entered under MCL 712A.18, the order is open to the public under MCL 712A.28, and the juvenile was at least 14 years of age when the offense was committed, and the order of disposition is for an offense that would classify the juvenile as a Tier III offender. MCL 28.722(b)(iii)(A)-(B); MCL 28.722(v); MCL 28.723(1)(a).

- 2) a juvenile order of disposition or other adjudication was entered in another state or country, and the juvenile was at least 14 years of age when the offense was committed, and the order of disposition or other adjudication is for an offense that would classify the juvenile as a Tier III offender. MCL 28.722(b)(iv)(A)-(B); MCL 28.722(v); MCL 28.723(1)(a).

Juvenile offenders are not included on the public internet website; juvenile offender information appears only on the law enforcement database. MCL 28.728(1); MCL 28.728(4)(a)-(b).

Conviction

For juveniles a conviction means either:

- 1) a juvenile order of disposition entered under MCL 712A.18, open to the public under MCL 712A.28, if the juvenile was at least 14 years of age when the offense was committed and the order of disposition is for an offense that would classify the juvenile as a Tier III offender. MCL 28.722(b)(iii)(A)-(B), or
- 2) a juvenile order of disposition or other adjudication in another state or country if the juvenile was at least 14 years of age when the offense was committed and the order of disposition or other adjudication is for an offense that would classify the juvenile as a Tier III offender. MCL 28.722(b)(iv)(A)-(B).

“Romeo & Juliet” Exceptions to Registration under SORA

Application of the Exceptions

The “Romeo & Juliet” exceptions in MCL 28.722(u)(v), MCL 28.722(u)(vi), and MCL 28.722(w)(iv) applies to criminal and juvenile cases brought on or after July 1, 2011. MCL 28.723a(7).

Romeo & Juliet Exception for Select Tier II and Tier III Offenses

The listed offenses, as reorganized in the amended SORA, include specific circumstances under which offenders who engaged in conduct described in MCL 28.722(u)(v), MCL 28.722(u)(vi), and MCL 28.722(w)(iv), may avoid SORA registration.

The circumstances surrounding the crimes are satisfied; the conduct does not qualify as a listed offense, and does not require registration under the SORA.

MCL 28.723a specifically outlines the process by which an individual accused of committing a crime described in MCL 28.722(u)(v), (vi), or (w)(iv) may prove that he or she qualifies to be exempt from registering under the SORA.

Romeo & Juliet Exception for Select Tier II Offenses

Under two specific circumstances, an individual may claim an exception to the registration requirement for conviction of MCL 750.158 (sodomy) involving a minor. See MCL 28.722(u)(v). To successfully claim this exception, the individual must satisfy either of two conditions:

- A. All of the following:
- The minor consented to the conduct that constituted the violation.
 - The minor was at least age 13 but was less than age 16 at the time of the violation.
 - The individual was not more than four years older than the minor.
- MCL 28.722(u)(v)(A)(I)-(III).

OR

- B. All of the following:
- The minor consented to the conduct that constituted the violation.
 - The minor was age 16 or age 17 at the time of the violation.
 - The minor was not under the custodial authority of the individual at the time of the violation. MCL 28.722(u)(v)(B)(I)-(III).
- See MCL 28.722(c) for the definition of custodial authority.

Under two specific circumstances, an individual may claim an exception to a violation of MCL 750.338 (gross indecency between males), MCL 750.338a (gross indecency between females), or MCL 750.338b (gross indecency between males and females) involving a minor who was at least age 13 but less than age 18 at the time of the violation. See MCL 28.722(u)(v). To successfully claim this exception, the individual must satisfy either of two conditions:

- A. All of the following:
- The minor consented to the conduct constituting the violation.
 - The minor was at least age 13 but was less than age 16 at the time of the violation.
 - The individual was not more than four years older than the victim.
- MCL 28.722(u)(vi)(A)(I)-(III).

OR

- B. All of the following:
- The minor consented to the conduct constituting the violation.
 - The minor was age 16 or age 17 at the time of the violation.
 - The minor was not under the custodial authority of the individual at the time of the violation. MCL 28.722(u)(vi)(B)(I)-(III).
- See MCL 28.722(c) for the definition of custodial authority.

Romeo & Juliet Exception for Select Tier III Offenses

Under specific circumstances, an individual may claim an exception to a violation of MCL 750.520b (CSC-I), MCL 750.520d (CSC-III), or MCL 750.520g(1) (assault with intent to commit criminal sexual conduct involving penetration) involving a minor who was at least age 13 but less than age 16 at the time of the violation. See MCL 28.722(w)(iv). To successfully claim this exception, the individual must satisfy all of the following conditions:

- 1) The minor consented to conduct constituting the offense.
 - 2) The minor was at least age 13 but under age 16 at the time of the offense.
 - 3) The individual was not more than four years older than the minor.
- MCL 28.722(w)(iv).

Discontinuing Registration under the Romeo & Juliet Provisions or for Juvenile Offenders Adjudicated for Offenses No Longer Requiring Registration

A person classified as a Tier I, Tier II, or Tier III offender who satisfies the requirements of MCL 28.728c(14) (Romeo & Juliet provisions for petitioners already registered) or MCL 28.728c(15) (petitioners adjudicated as juveniles for offenses no longer requiring registration) may petition the court for an order permitting him or her to discontinue registration under the SORA. MCL 28.728c(3).

Romeo & Juliet Provisions for Registered Offenders

MCL 28.728c(14) *requires* the court to grant a properly filed petition if the court determines that the petitioner's conviction of the listed offense resulted from a *consensual* sexual act between the petitioner and the victim under any of the following circumstances:

- A. All of the following:
 - The victim was 13 years of age or older but less than 16 years of age at the time of the offense.
 - The petitioner is not more than 4 years older than the victim.

OR

- All of the following:
 - The individual was convicted of a violation of . . . MCL 750.158, [MCL] 750.338, [MCL] 750.338a, [or MCL] 750.338b.
 - The victim was 13 years of age or older but less than 16 years of age at the time of the violation.
 - The individual is not more than four years older than the victim.

OR

- B. All of the following:
 - The individual was convicted of a violation of . . . MCL 750.158, [MCL] 750.338, [MCL] 750.338a, [MCL] 750.338b, [or MCL] 750.520c[(1)(i)].
 - The victim was 16 years of age or older at the time of the violation.
 - The victim was not under the custodial authority of the individual at the time of the violation.

See MCL 28.722(c) for the definition of custodial authority.

Juveniles Adjudicated for Offenses that no Longer Require Registration.

MCL 28.728c(15) *requires* the court to grant a properly filed petition if the court determines that either of the following apply:

- A. Both of the following:
 - The petitioner was adjudicated as a juvenile.
 - The petitioner was less than 14 years of age at the time of the offense.

OR

- B. The individual was registered under [the SORA] before July 1, 2011 for an offense that required registration but for which registration is not required on or after July 1, 2011.

Registration Information Applicable to All Offenders

Registration Fee

An offender required to register under the SORA must pay a \$50 initial registration fee (as well as a \$50 annual registration fee, not to exceed \$550). MCL 28.727(1). Of the \$50 registration fee, \$30 must be forwarded to the Department of State Police for deposit into the sex offender's registration fund, and \$20 must be retained by the court, local law enforcement agency, sheriff's department, or department post. MCL 28.725b(1).

Verification of Information

When an offender reports as required, the registering authority must verify the offender's residence or domicile and, if applicable, the information reported under MCL 28.724a (enrollment status at an institution of higher education), MCL 28.725a(5), and determine whether the offender's appearance sufficiently matches the photograph taken of the offender as required by the SORA.

Offender to be Given a Receipt of Verification

The registering authority must sign and date a verification receipt and provide the offender with a copy of the signed and dated receipt. MCL 28.725a(5).

Information Required on or Excluded From SORA Registration/Law Enforcement Database/Public Internet Website

2011 PA 18 significantly expanded the scope of information to be gathered and included on an offender's SORA registration, the law enforcement database, and the public internet website. See MCL 28.727; MCL 28.728. See *the updated DD-004 form found in the appendix*. The public internet website contains a limited amount of the information found on an offender's registration and on the law enforcement database. MCL 28.728(2).

Juveniles Excluded from the Public Internet Website

Juvenile adjudications are excluded from the public internet website. This information appears only on the law enforcement database. MCL 28.728(1); MCL 28.728(4)(a)-(b).

SEX OFFENDER ASSESSMENT TOOLS

The Estimated Risk of Adolescent Sexual Offender Recidivism (ERASOR) Instrument

The Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR) is a checklist designed to assist estimating the short-term risk of a sexual reoffense for youth 12–18 years of age by evaluating 25 risk individuals (16 dynamic and 9 static). Estimates of the risk for future sexual offending assist with decisions regarding many critical issues:

- the level of community access
- the timing of family reunification
- the delivery of specific treatment interventions

For more information on the ERASOR instrument, or for the ERASOR checklist, contact:

Dr. James R. Worling, C.Psych.
Consultant Psychologist/Coordinator of Research
Sexual Abuse: Family Education & Treatment (SAFE-T) Program
Thistletown Regional Centre
51 Panorama Court
Toronto, Ontario, Canada M9V 4L8
jworling@ican.net

The Juvenile Sex Offender Assessment Protocol (J-SOAP)

The Juvenile Sex Offender Assessment Protocol-II (J-SOAP-II) is a checklist to aid in the systematic review of risk of individuals that have been identified in the professional literature as being associated with sexual and criminal offending. It is designed to be used with boys in the age range of 12 to 18 who have been adjudicated for sexual offenses, as well as non-adjudicated youths with a history of sexually coercive behavior. Like any scale that is intended to assess risk, J-SOAP-II requires ongoing validation and possible revision, as more is learned about how J-SOAP-II works and about how best to assess the risk of youths who have sexually offended. The J-Soap manual may be found at: <http://www.csom.org/pubs/JSOAP.pdf>

For a comparison of the ERASOR and JSOAP instruments, see:
http://www.forensicare.org/images/Forensic_Risk_Assessment.PDF

SEXUAL ADJUSTMENT INVENTORY - JUVENILE

The Sexual Adjustment Inventory-Juvenile (SAI-Juvenile) is a juvenile (12-18 years old, male and female) sex offender assessment test. This is a state-of-the-art test that is comprehensive, informative and statistically sound. It is a popular test.

The SAI-Juvenile identifies sexually deviate and paraphiliac behavior in juveniles accused or convicted of sexual offenses and has been standardized (normed) on thousands of sex offenders.

Important sex-related and non-sex-related attitudes and behaviors are evaluated and this comprehensive, multi-scaled approach provides meaningful sex offender information.

The Sexual Adjustment Inventory-Juvenile (SAI-Juvenile) has demonstrated impressive reliability, validity and accuracy. This test meets and exceeds the professionally accepted standards.

The SAI-Juvenile has 230 items, takes 45 minutes to one hour to complete and has 13 measures (scales). These measures include six sex-related scales and seven non-sex-related scales.

- | | |
|-----------------------------------|---------------------------------|
| 1. Sex Item Truthfulness Scale | 7. Test Item Truthfulness Scale |
| 2. Sexual Adjustment Scale | 8. Alcohol Scale |
| 3. Child (Pedophile) Molest Scale | 9. Drugs Scale |

4. Sexual (Rape) Assault Scale
5. Exhibitionism Scale
6. Incest Classification

10. Violence (Lethality) Scale
11. Distress Scale
12. Antisocial Scale
13. Impulsiveness Scale

The Sexual Offense Risk Appraisal Guide: (SORAG)

The SORAG is an effective though relatively complicated 14-item scale. It requires a thorough and reliable social history, knowledge of the offender's DSM diagnosis and a Hare's Psychopathy Checklist, Revised (PCL-R) score. If no PCL-R Score is available, users can substitute the Child and Adolescent Taxon Scale (CATS), but risk losing a small degree of accuracy.

SORAG is best at predicating risk among violent sexual offenders.

Rapid Risk Assessment of Sexual Reoffending (RRASOR)

RRASOR requires only four readily available pieces of information:

1. prior sex offenses
2. offender's current age
3. victim gender, and
4. offender's relationship to victim.

Effective use requires a few hours of training for people inexperienced with actuarial scales.

Static-99

Static-99 has likely become the best known and most widely used actuarial scale in sex offender work. Static-99 includes the four RRASOR items and offers a small improvement in accuracy by adding six additional items. Static-99 is also superior to RRASOR in that it yields separate probabilities for sexual reoffense risk and risk of any violent reoffense. Like RRASOR, Static-99 can be scored from record material alone and is suitable for use by corrections and field supervision personnel as well as mental health professionals. Effective use requires a few hours of training for inexperienced with actuarial scales.

The Sex Offender Needs Assessment Rating (SONAR)

SONAR represents the best attempt to date to apply actuarial methods to dynamic variables. However, although SONAR developers have published their development work, they have not yet published validation studies and SONAR cannot be considered fully scientific until this information is available.

SONAR classifies offenders into dynamic risk pools for longer periods (a month to a year) by relying on five Stable-Dynamic factors. These are:

1. Intimacy deficits
2. Social influences
3. Attitudes towards sexual offending
4. Sexual self-regulation
5. General self-regulation

NOTE: You should not utilize any assessment instrument without proper training.

Sex Offender Treatment

Most sex offenders are managed by the justice system through a combination of methods including detention, probation, and some form of specialized treatment. You should become familiar with any treatment programs in your community.

Treatment Program Components

The treatment components of sexual offender programs vary. There are, however, some consistent themes:

- accepting responsibility for behavior
- identifying a pattern or cycle of offending
- learning to interrupt the cycle
- developing empathy for the victim
- increasing the use of appropriate social skills
- addressing one's own history of abuse
- decreasing deviant forms of sexual arousal
- increasing accurate sexual knowledge
- enhancing interpersonal skills
- improving family relationships
- increasing awareness of the possibility of relapse as well as learning methods to prevent this

Psycho-Educational Treatment

Many programs offer psycho educational experiences to youth in order to enhance knowledge or reduce skill deficits. Research (Knight and Sims-Knight, 2001) shows adolescent sexual abusers are not homogenous in etiology or in the areas of social skills, dating skills, sexual knowledge, etc. The research on heterogeneity of the youth supports individualized programming for youth with different needs and backgrounds so that youth receive what they need and do not participate in unnecessary or inapplicable classes.

Mental Health Evaluation

In Wasserman, Ko, & McReynolds' 2004 study of non-sexually abusive delinquents, it was revealed that 65 percent had a mental health diagnosis. This high percentage may reflect recent referral practices or decreases in community mental health beds.

Whatever the causes, it is clear from such studies and clinical practice that many delinquent youth and many sexually abusive youth may have mental disorders that need assessment and treatment. Programs should therefore strongly consider having psychiatric consultation available to youth.

Medication

The treatment of adolescent sexual abusers with antiandrogen drugs such as Lupron, Depo Provera, or Provera is controversial, but in many states, youth are retained in juvenile justice settings until the age of 21 and some of the youth who are treated with such drugs may be young adults for whom these drugs are less dangerous and protocols for giving antiandrogen drugs to are better understood by providers.

Diversity Training

Lewis (1999) has recognized the need to incorporate an understanding of cultural differences into sexual abuser treatment. Treatment programs in related areas (e.g.,

delinquency) that have integrated cultural differences into their treatment programs have shown success in decreasing negative behaviors and criminal charges (Botvin, Schinke, Epstein, Diaz, & Botvin, 1995).

Motivational Interviewing

Originally developed to address individuals with substance abuse issues, Motivational Interviewing is a collaborative, goal-oriented style of communication with particular attention to the language of change. It is designed to strengthen personal motivation for and commitment to a specific goal by eliciting and exploring the person's own reasons for change within an atmosphere of acceptance and compassion.

Motivational Interviewing is a person-centered counseling style for addressing the common problem of ambivalence about change that employs four processes:

1. Engaging - used to involve the client in talking about issues, concerns, and hopes, and to establish a trusting relationship with a counselor.
2. Focusing - used to narrow the conversation to habits or patterns that clients want to change.
3. Evoking - used to elicit client motivation for change by increasing clients' sense of the importance of change, their confidence about change, and their readiness to change.
4. Planning - used to develop the practical steps clients want to use to implement the changes they desire.

(Prochaska and DiClemente 1984, Rollnick S., & Miller, W.R. (1995).)

Various Statewide and Community Resources Available to Victims of Sexual Assault

Michigan Domestic Violence and Sexual Assault Prevention and Treatment Board (MDVSAPTБ)

The MDVSAPTБ is part of the Michigan Department of Human Services. The MDVSAPTБ administers funding and conducts quality assurance monitoring for sexual assault programs providing crisis intervention, counseling, and some private nurse examiner services.

The MDVSAPTБ also works collaboratively with other community members to promote safety for victims of domestic and sexual violence, and to hold perpetrators accountable. The MDVSAPTБ may be contacted at:

PO Box 30037
Lansing, MI 48909
Phone: (517) 373-8144
http://michigan.gov/dhs/0,1607,7-124-5460_7261---,00.html

Michigan Coalition Against Domestic and Sexual Violence (MCADSV)

The MCADSV is a private, nonprofit, statewide membership organization. MCADSV's mission is to develop and promote efforts aimed at the elimination of all domestic and sexual violence in Michigan. MCADSV program activities include providing leadership, technical assistance, training, and resources throughout Michigan to benefit domestic and sexual violence survivors. Contact the MCADSV at:

3893 Okemos Road, Suite B2
Okemos, MI 48864
Phone: (517) 347-7000
www.mcadsv.org

Michigan Resource Center on Domestic and Sexual Violence

The Michigan Resource Center on Domestic and Sexual Violence contains a collection of books, videos, journals, and other media on domestic and sexual violence and related subjects. The services of the Resource Center are available to the general public, and its staff members will respond to telephone and electronic information requests from patrons.

The Resource Center is open Monday - Friday 8:30 a.m. - 5:00 p.m., or materials can be mailed anywhere in Michigan free of charge. Contact the Resource Center at:

3893 Okemos Road, Suite B2
Okemos, MI 48864
Phone: (517) 381-4663
resource@mcadsv.org
<http://www.resourcecenter.info>

Community-Based Efforts That Address Sexual Assault

Michigan sexual assault service agencies provide victims of sexual assault with help and support in surviving sexual assault. The types of services provided are not uniform statewide. However, some common services are as follows:

- 24-hour telephone crisis lines
- individual and group counseling
- transportation assistance
- safety planning
- childcare services
- information and education about sexual violence
- assistance in finding temporary or permanent housing, if needed
- assistance to victim's family members and friends
- assistance and advocacy with social service agencies
- assistance and advocacy with medical and other health care
- assistance and advocacy with the legal system

Many MDVSAPTБ-funded domestic violence programs could be contacted for a referral to sexual assault services in an area:

http://www.michigan.gov/som/0,1607,7-192-29941_30586_240-2884--,00.html

Questions for Review:

What is the "Sex Offender Registry" and what are the requirements for registration?

What does the recent research say about juvenile sex offenders?

Are juveniles required to register?

Under what circumstances may a juvenile petition for exemption from the registry?

What is the SORA registration fee and who should collect the fee?

What statewide and local services are available to victims of sexual assault?

What are the two assessment instruments described in this chapter?

What are some current treatment modalities for juvenile sex offenders?

Chapter 19: Gangs

INTRODUCTION

The purpose of this chapter is to familiarize you with some terminology of gang culture and provide information on gang activity. The most recent statistics compiled by the Michigan State Police indicate that virtually every county in Michigan – with the exception of a few counties in the Upper Peninsula – have identified gang activity. The primary age group of gang members generally ranges from 13 to 21 years old.

The Term “Gang”

Gangs are not something new to the social arena. They existed in fourteenth and fifteenth-century Europe and colonial America. Throughout the twentieth and well into the twenty-first century, social researchers have devoted extensive time and resources to the understanding of youth gangs in America. Throughout history, gangs have consistently existed within the margins of society, within what has been referred to as the “interstitial parts” of the city. In short, where there is extreme poverty and inequality (especially racial inequality), there have been gangs.

Public perception (and fear), crucial to policy development, is shaped largely by the mass media. It is clear that the media have done little to differentiate fact from fiction in their portrayal of youth gangs. Moreover, the media, over the past 30 years or so, have capitalized on the incidents of gang activities by significantly increasing their coverage of youth gangs. The media have contributed to the stereotypical images of how we think about gangs and gang members.¹

There is no consensus on a standardized definition of a “gang”, but there is some agreement on the basic elements.

Maxson and Klein (1990, 2006) developed three criteria for defining a street gang:

- Community recognition of the group;
- The group’s recognition of itself as a distinct group of adolescents or young adults; and
- The group’s involvement in enough illegal activities to get a consistent negative response from law enforcement and neighborhood residents.

James C. (Buddy) Howell, Ph.D., is likely the most notable of contemporary gang experts. In his publication **Youth Gangs: An Overview** for the Office of Juvenile Justice (1998), he conducted a thorough review of gang research studies dating back to the 1950s and cited the many potential causes of why individuals become involved in gangs:

¹ Youth Gangs in American Society, Sheldon, et al. 2012

Community:

Social disorganization, including poverty
Availability of drugs and firearms
Social and economic barriers
Norms supporting gang behavior

Family:

Family disorganization, including broken homes
Parental drug/alcohol abuse
Incest, family violence, and drug addiction
Family members in a gang
Lack of adult male/parental role models
Parents with violent attitudes

School:

Academic failure
Negative labeling
Trouble at school
Low achievement test scores

Peer Group:

Delinquent peers
Few positive peers
Street socialization
Friends who use drugs or who are gang members
Interaction with delinquent peers

Individual:

Prior delinquency
Deviant attitudes
Early or precocious sexual activity, especially among females
Alcohol and drug use
Desire for group rewards such as status, identity, self-esteem, companionship, and protection
Victimization

Richard Cloward and Lloyd Ohlin (1960) as cited by Short (1975) and Pfahl (1994) conducted early gang studies and developed the "Social Structures Theory", the concept that individuals may become involved in gang life and crime simply because legitimate means of success are unavailable to them.

- *Criminal gangs* are likely to exist in stable low-income areas where there are close relationships between adolescents and adult criminals.
- *Conflict gangs* develop in communities with dilapidated conditions and transient populations. When criminal opportunities do not exist, conflict gangs fight to gain social status and protect their integrity and honor.
- *Retreatist gangs* do not possess the skills to be considered criminal gangs. They retreat into a role on the fringe of society that usually involves heavy drug use and withdrawal from social interaction.

The Impact of Gangs on Schools

According to the most recent biennial School Crime Supplement to the Bureau of Justice Statistics (BJS) National Crime Victimization Survey (2013 supplement), 16 percent of schools report gang activity. The mere presence of gangs in school can increase tensions. Students in schools with a gang presence are twice more likely to report that they fear becoming victims of violence than their peers at schools without gangs.

Gang Involvement in Drugs and Violence

Gangs are increasingly blamed for drug and violence problems. Based on media accounts, the public believes gangs are extremely violent, involved in drug trafficking, are highly organized, and are a pervasive part of the social landscape. As the media continues to portray gangs in this negative light, gang members gain a reputation of being tough and savvy, enhancing their standing in their communities.

A number of gangs are involved in using and selling drugs, while others are involved in selling but prohibit use by gang members. Some gangs are highly organized, while others are fragmented, with individual members involved in drug dealing, but acting independently of the gang. Still other gangs and gang members are heavily involved in using drugs, but do not sell them.

Despite increases in the use of violence by gang members, especially if their organizational viability or their competitive edge in the drug market is challenged, much gang activity is fairly mundane. A study in Ohio found that gang members spent most of their time acting like typical adolescents — disobeying parents and skipping school.

VARIOUS GANGS

Below are a few of the most notable gangs, historically:

Bloods: The Bloods were once called Pirus; the name continues but is not as prominent as it once was. Founded in Los Angeles, it is widely known for its rivalry with the Crips. The Bloods are identified by the red color worn by their members and by particular gang symbols, including distinctive hand signs. The Bloods are made up of various sub-groups known as "sets" between which significant differences exist such as colors, clothing, operations, and political ideas which may be in open conflict with each other. Other symbols and slang frequently used include: Bo (Marijuana), Crab (Crip), Cuz (Crip), Hood (Neighborhood), H (Neighborhood), Rag (Gang Handkerchief), Rooster (Piru), Blood Ru (Piru), Blood Set (Neighborhood or gang), Sway-Boy (Blood or Anti-Crip), Ups (Bloods), 187 (Murder). Black gang members use colorful monikers such as "Mad Bear," "Super Fly," and "Killer."

Crips: The Crips are primarily, but not exclusively, an African American gang. Also founded in Los Angeles, (1971). The Crips are one of the largest and most violent of street gangs in the United States, with an estimated 30,000 to 35,000 members. The gang is known to be involved in murders, robberies, and drug dealing, among many other criminal pursuits. The gang is known for its gang members' use of the color blue in their clothing. However, this practice has waned due to police crackdowns on gang members. Crips graffiti often include "B/K" which means Blood Killer. The "B" may have

a slash through it. Often any “B” or “P,” standing for Piru, appearing in any name or word has a slash through it or is written backwards – all to “diss” the Bloods. Crip graffiti also refer to the Bloods as “Slobs.” Slob Killers means Blood Killers. A diamond around “BK” is another way of saying Blood Killer.

Latin Kings: Latin Kings is a Puerto Rican gang that started in Chicago. The Latin King colors are black and gold; gang markings consist of a five or three-point crown, writings of LK, ALK, ALKN, ALKQN abbreviations (or the whole words), and drawings of the Lion and/or the King Master. Latin King symbolism is usually accompanied with the name and number of the chapter, region, or city of the gang. The Latin Kings are of the People Nation, and therefore, represent everything to the "left" in opposition to the "right", which is representative of the "Folk Nation".

Vice Lords: The Almighty Vice Lord Nation (abbreviated AVLN, VLN, or CVLN) is the second largest gang and one of the oldest gangs in Chicago. They are also one of the founding members of the People Nation multi-gang alliance. Vice Lord street gangs use a variety of gang graffiti symbols or emblems, to identify themselves and their gang 'turf' including:

- a hat cocked to the left side
- cane
- five-point star
- Saracen symbols of the Legendary Arabian Anti-Crusaders King Neal
- five-points of the golden star
- crescent moon (Teutonic)
- broken heart with wings - the heart with wings is a symbol of the Maniac Latin Disciples, breaking it is a sign of disrespect

White Supremacist Gangs: Are often blatantly racist and homophobic. For example: ANP (American Nazi Party), WAY (White American Youth or White Aryan Youth), SWP (Super White Power), WAR (White Aryan Resistance), NSWPP (National Socialist White Peoples Party), NSWWP (National Socialist White Workers Party), AYM (Aryan Youth Movement), SRIW (Super Race Is White). “WAY” stands for either “White American Youth” or “White Aryan Youth.”

Transnational Gangs: Within the last decade, a number of violent upstart gangs have emerged, including the Los Angeles–based Mara Salvatrucha (MS-13). Although their presence has waned over the last few years, the MS-13 gang is often described as the “world’s most dangerous gang.” With cliques in 42 states, including Michigan, the MS-13 gang is truly "international" and on the verge of becoming the first gang to be categorized as an "organized crime" entity.

Gang members sport numerous tattoos on their bodies and faces and wear blue and white colors taken from the El Salvadoran flag. Their membership varies in age from 11 to 40 years old and is estimated to total over 36,000 in the Honduras alone. Their progressive increase in violent activities and careless disregard for the law (threats and attacks against law enforcement officials is common), has made them the most feared gang in the United States.

Tagger and Gang Graffiti

Graffiti can be petty annoyances by juvenile vandals, attempts at artistic expression, or signs that street gangs have moved into the neighborhood. Individual gangs often have more than one acronym or graffiti tag that identifies them, and frequently use variations in the spelling of their names.

Tagger graffiti, or what some people call street art, are personal expressions of the taggers, and they are an end in themselves, not a threat of something else.

Gang graffiti, on the other hand, are intended to represent the presence of a gang. They convey a threat of gang violence in the neighborhood. In New York City, subway graffitists came to be known as “taggers” because they signed their work with their chosen nicknames or tags. To the tagger, the important thing was “getting up,” that is, putting his or her tag on as many surfaces as possible. Taggers often form into groups called “crews” and adopt crew tags.

Gang graffiti can become dialogue between gangs and eventually a record of gang wars, from initial territorial claims, to challenges to individuals and gangs, to records of individual deaths. Graffiti are easy and cheap to put up and entail relatively low risk for the gang graffitist, particularly when compared to other gang activity. Even the risk of being caught is not terribly threatening because legal sanctions, if any, are not heavy.

Early Warning Signs of Gang Activity in a Community

Graffiti is a clear marking of territorial boundaries that serves as a warning and challenge to rival gangs. It is also used to communicate messages between gangs.

For More Information

Log into the National Gang Center Database <http://www.nationalgangcenter.gov/>. Regionally, the Midwest Gang Investigators Association holds regular conferences: <http://www.mgia.org>.

Questions for Review:

What is a gang?

What is the impact of gangs in schools?

What are gangs' ethnic and racial compositions?

What is a tagger?

How is graffiti related to gang activity?

What are some characteristics of gangs?

What are some early warning signs of gang activity?

Where can you get more information?

Chapter 20: Mental Health Issues

INTRODUCTION

Youth coming into the system are often diagnosed with mental health disorders and medicated accordingly. Sometimes the medications are effective in modulating, mitigating, and perhaps, remediation inappropriate behaviors in youth. Often, youth are mismedicated, misdiagnosed, and in need of accurate assessment.

This chapter is designed to familiarize you with some of the most common mental health disorders. It is not meant to be an all-inclusive list of disorders or diagnostic material. The descriptors are brief, but highlight primary features of disorders to assist you in effectively working with youth. There are many mental health disorders that begin in childhood, but cannot be diagnosed until adulthood. For purposes of this chapter, we focus on youth-related diagnoses. Publications and websites have been added as a resource.

Mental Health Disorders

Mental health disorders range in characteristics and diagnosis. However, they can typically be classified into one of the following categories:

- mood disorders
- attention deficit and disruptive behavior, personality disorders
- impulse-control disorders
- reactive attachment disorder
- anxiety disorders
- adjustment disorders
- learning disorders
- substance abuse disorders
- self-mutilation

MOOD DISORDERS

Depressive Disorders

A major depressive disorder: Typically characterized by one or more episodes lasting a period of at least two weeks and manifesting a depressed mood or the loss of interest or pleasure in nearly all activities. In children, the mood may be irritable rather than sad.

For a more accurate diagnosis, the individual must also experience at least four additional symptoms that include:

- 1) significant change in appetite or weight
- 2) sleep and psychomotor activity
- 3) decreased energy, feelings of worthlessness or guilt, difficulty thinking, concentrating or making decisions
- 4) recurrent thoughts of death or suicidal ideation, plans, or attempts

The MJI gratefully acknowledges the contribution of Ms. Sandi Metcalf, 20th Circuit Court (Ottawa County), Family Division, who authored the original chapter.

Another factor includes episodes that are progressive in nature. Impairment in social, occupational, or other important areas of functioning are also a key diagnostic factor.

A minor depressive disorder: Similar to a major depressive disorder in duration, but involves fewer symptoms and less impairment. Again, progressively worsening episodes must exist.

Dysthymic (depressed) disorder: Characterized by at least two years of a pervasively depressed mood accompanied by additional depressive symptoms that do not meet criteria for a major depressive episode.

BIPOLAR DISORDERS

Bipolar I Disorder

Characterized by the occurrence of one or more manic episodes or mixed episodes and often, one or more major depressive episodes. In addition, the episodes cannot be accounted for by a diagnosis of schizophrenia or other psychotic conditions. Completed suicide occurs in 10 – 15 percent of these diagnosed individuals and abusive, violent behavior may occur during manic episodes or during those with psychotic features. Other associated problems may include truancy, academic failure, occupational failure, episodic antisocial behavior, or relational difficulties. Approximately 10 – 15 percent of adolescents with recurrent major depressive episodes will go on to develop Bipolar I Disorder.

Bipolar II Disorder

Characterized by one or more major depressive episodes, accompanied by at least one hypomanic episode.

Major Depressive Episode Diagnosis Criteria

Five or more symptoms present from following list:

- depressed mood most of the day, nearly every day
- diminished interest in most activities, nearly every day
- significant weight loss or gain or change in appetite
- insomnia or hypersomnia, nearly every day
- fatigue or loss of energy, nearly every day
- feelings of worthlessness or excessive guilt, nearly every day
- diminished ability to think or concentrate, nearly every day
- recurrent thoughts of death
- psychomotor agitation or retardation, nearly every day

Manic Episode

A distinct period of abnormally and persistently elevated, expansive, or irritable mood lasting at least one week.

The mood disturbance is severe, causing impairment in job, social, and relationship activities.

Three or more of the following symptoms during the mood period:

- inflated self esteem
- decreased need for sleep
- more talkative than usual
- thoughts are racing
- distractibility
- increase in goal directed activity
- excessive involvement in activities with potentially painful consequences

Hypomanic (low intensity) Episode

Have the identical list of characteristic symptoms of manic episode.

Disturbance is not sufficiently severe to cause marked impairment in social or occupational functioning.

Cyclothymia

Is a more chronic, unstable mood state. This diagnosis is given when, over the course of one year, a person experiences moods that are abnormally high or low for at least half of the days. To be diagnosed with cyclothymia, a person must have hypomanic symptoms and some depressive symptoms for at least half of the time, over a period of one year. For example, a person can have some symptoms of hypomania followed by an episode of depression. Because the symptoms of hypomania never lasted that long, the person would not qualify for a diagnosis of Bipolar II, since he or she did not have a full-blown hypomanic episode, but he or she would qualify for a diagnosis of bipolar.

ATTENTION-DEFICIT AND DISRUPTIVE BEHAVIOR PERSONALITY DISORDERS

Attention-Deficit/Hyperactivity Disorder (ADHD)

- characterized by prominent and persistent patterns of inattention, hyperactivity, and impulsivity
- predominately hyperactive-impulsive type
- some impairment in at least two areas of functioning must occur
- often do not follow through on requests, work is messy and incomplete, and there must be clear evidence of interference with developmentally appropriate social, academic, or occupational functioning

Conduct Disorder

Characterized by a repetitive and persistent pattern of behavior in which the basic rights of others or major age-appropriate societal norms or rules are violated.

Behaviors fall into four main groups:

- 1) aggressive conduct that threatens or causes physical harm to people or animals
- 2) nonaggressive conduct that causes property loss or damage
- 3) serious violations of rules
- 4) being deceitful or theft

At least three behaviors listed above must have been present over the past 12 months. Behaviors are often present in a variety of environs including home, school and/or the community. Minimization of behaviors is prevalent. Children often initiate aggressive behaviors.

Oppositional Defiant Disorder

Characterized by a recurrent pattern of negative, defiant, disobedient, and hostile behavior toward authority figures, that persists for more than six months. Typically reflects frequent occurrence of at least four of the following behaviors:

- 1) losing temper
- 2) arguing with adults
- 3) actively defying or refusing to comply with requests or rules
- 4) deliberately doing things that annoy others, easily annoyed by others, blames others for own mistakes or misbehavior, angry and resentful, and vindictive compared to peers

May also include deliberate testing of limits, persistent stubbornness, resistance to directions, and failing to accept blame. Most often manifested in the home and may not be evident at school or within the community.

IMPULSE-CONTROL DISORDERS

Intermittent Explosive Disorder

Characterized by the occurrence of discrete episodes of failure to resist aggressive impulses that result in serious, assaultive acts, or destruction of property.

Degree of aggressiveness expressed during an episode is grossly out of proportion to any provocation or precipitating psychosocial stressor.

REACTIVE ATTACHMENT DISORDER

Markedly disturbed and developmentally inappropriate social relatedness in most contexts that begins before age five years and is associated with grossly pathological care that does not take into account the child's needs for comfort, stimulation, and affection.

Two types: Inhibited and Disinhibited

Inhibited: Child persistently fails to initiate and respond to most social interactions in a developmentally appropriate way; shows a pattern of excessively inhibited, hyper-vigilant, or highly ambivalent responses.

Disinhibited: A pattern of diffuse attachments; exhibits indiscriminate sociability or lack of selectivity in the choice of attachment figures.

ANXIETY DISORDERS

Social Phobia

Characterized by significant anxiety, provoked by exposure to types of social and performance situations.

Post-Traumatic Stress Disorder (PTSD)

Development of characteristic symptoms following exposure to an extreme traumatic stressor, involving direct personal experience of an event that involves actual or threatened death, serious injury, threat to one's physical integrity, or witnessing of such.

Characteristic symptoms include reexperiencing an extremely traumatic event accompanied by symptoms of increased arousal and by avoidance of stimuli associated with the trauma.

Panic Attacks

Periods of intense fear or discomfort with four or more symptoms developing abruptly and peak within ten minutes:

- palpitations, pounding heart
- sweating
- trembling or shaking
- sensations of shortness of breath or smothering
- feeling of choking
- chest pain or discomfort
- nausea or abdominal distress
- feeling dizzy, unsteady, lightheaded, faint
- feelings of unreality or being detached from oneself
- fear of losing control or going crazy
- fear of dying
- numbness or tingling sensations
- chills or hot flashes

Adjustment Disorders

The development of clinically significant emotional or behavioral symptoms in response to an identifiable psychosocial stressor or stressors. The symptoms must develop within three months after the onset of the stressor. This can be characterized by the following: depressed mood, with anxiety, disturbance of conduct, or mixed emotion and conduct.

LEARNING DISORDERS

Learning Disability

A disorder in the basic psychological processes involved in understanding or using language, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do math.

The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Determination is based on a comprehensive evaluation by a multidisciplinary team.

Areas of Discrepancy:

- oral expression
- listening comprehension
- written expression
- basic reading skills
- reading comprehension
- mathematics calculations
- mathematics reasoning

Emotionally Impaired

Determined through manifestation of behavioral problems, primarily in the affective domain, over an extended period of time, which adversely affect the person's education to the extent that the person cannot profit from regular learning experiences without special education support.

Characteristics:

- Inability to build or maintain satisfactory interpersonal relationships within the school environment.
- Inappropriate types of behavior or feelings under normal circumstances.
- General pervasive mood of unhappiness or depression.
- Tendency to develop physical symptoms or fears associated with personal or school problems.
- Does not include socially maladjusted unless it is determined the person is emotionally impaired.

Autism Spectrum Disorder (ASD)

Autism spectrum disorder and autism are disorders characterized, in varying degrees, by difficulties in social interaction, verbal and nonverbal communication, and repetitive behaviors. In the DSM-V diagnostic manual, all autism disorders were merged into one umbrella diagnosis of ASD.

ASD can be associated with:

- Intellectual disability
- Difficulties in motor coordination
- Attention and physical health issues, such as sleep and gastrointestinal disturbances.

Some persons with ASD excel in visual skills, music, math, and art.

Autism appears to have its roots in very early brain development. However, the most obvious signs of autism and symptoms of autism tend to emerge between two and three years of age.

Autism statistics from the U.S. Centers for Disease Control and Prevention (CDC) identify around 1 in 68 American children as on the autism spectrum. Studies also show that autism is four to five times more common among boys than girls. An estimated 1 out of 42 boys and 1 in 189 girls are diagnosed with autism in the United States.

Asperger Syndrome

Asperger syndrome is an autism spectrum disorder (ASD) considered to be on the "high functioning" end of the spectrum. Affected children and adults have difficulty with social interactions and exhibit a restricted range of interests and/or repetitive behaviors. Motor development may be delayed, leading to clumsiness or uncoordinated motor movements. Compared with those affected by other forms of ASD, however, those with Asperger syndrome do not have significant delays or difficulties in language or cognitive development. Some even demonstrate precocious vocabulary – often in a highly specialized field of interest.

The following behaviors are often associated with Asperger syndrome. However, they are seldom all present in any one individual and vary widely in degree:

- limited or inappropriate social interactions
- "robotic" or repetitive speech
- challenges with nonverbal communication (gestures, facial expression, etc.) coupled with average to above average verbal skills
- tendency to discuss "self" rather than "others"
- inability to understand social/emotional issues or nonliteral cues
- lack of eye contact or reciprocal conversation
- obsession with specific, often unusual, topics
- one-sided conversations
- awkward movements and/or mannerisms

Asperger syndrome often remains undiagnosed until a child or adult begins to have serious difficulties in school, the workplace, or their involvement in the justice system. Indeed, many adults with Asperger syndrome receive their diagnosis when seeking help for related issues such as anxiety or depression.

Intellectual Disability

Characterized by significantly subaverage, general intellectual functioning accompanied by significant limitations in functioning in a least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of the community resources, self-direction, functional academic skills, work, leisure, health, and safety. Onset must occur before 18 years of age.

SUBSTANCE ABUSE DISORDERS

Essential feature is a cluster of cognitive, behavioral, and physiological symptoms that indicate continued use of substances despite significant substance-related problems. Pattern of repeated self-administration, resulting in tolerance, withdrawal, and compulsive drug-taking behavior.

- "With physiological dependence" diagnosis involves the evidence of tolerance and withdrawal;
- "Without physiological dependence" diagnosis involves no evidence of withdrawal or tolerance, but is characterized by a pattern of compulsive use;
- Diagnostic criteria includes: a maladaptive pattern of use leading to clinical impairment or distress as manifested by one or more of the following within a 12 month period of time:
 - a). Recurrent substance use resulting in failure to fulfill obligations at work, school, or home;
 - b). Recurrent use in situations in which it is physically hazardous, e.g. driving an automobile, operating machinery, etc.
 - c). Recurrent substance-related legal problems; and
 - d). Continued use despite persistent relationship or interpersonal problems.

Co-Occurring Disorders

Sometimes juveniles will have both substance abuse and mental health disorders. This is known as a co-occurring disorder. Common examples include the combination of depression with cocaine addiction, alcohol addiction with panic disorder, marijuana addiction, and adjustment disorder.

Self-Mutilation

- Characterized by the injury resulting in injury to skin or body tissues that is a form of self-soothing.
- May be in the form of tearing, bruising, cutting, or burning of the skin.
- Provides relief and gratification from increasingly intense stress and/or anxiety.
- Is NOT suicidal behavior.
- MAY result in ACCIDENTAL suicide as a result of methods used to self-injure while seeking relief.
- May use tools or instruments, e.g. cigarette, erasers, iron, etc. for burning, swallowing sharp objects such as razor blades, excessive body piercing and tattooing, needles, swallowing toxic chemicals that burn, etc.

Trichotillomania

- Essential feature includes recurrent pulling out of one's own hair which results in visible hair loss.
- An increased sense of tension immediately before pulling out the hair or when attempting to resist the behavior may exist.
- May experience a sense of stress relief, pleasure, or gratification from behavior.

INTERVENTION STRATEGIES

Working with youth who have mental health issues can be challenging. The following list of intervention strategies represents suggested approaches that can insure better success when working with this population:

- Be patient!
- See them as a person first, not a diagnosis.
- Put yourself in their shoes.
- Get informed about the youth, family, and environs in which they live.
- Treat them with respect and affirmation.
- Be consistent, nurturing, yet firm.
- Be gender-responsive; get trained so you can respond appropriately.
- Be concrete, repeat instructions and important statements.
- Develop and use behavioral contracts.
- Ask them to repeat and summarize what you have told them.
- If giving written material, have them read some aloud.
- Use games, art, or outside activities to help them talk more easily.
- Clarify jargon, abbreviations, or other words they may not understand.
- Make appropriate referrals.

Stages of Change

- 1) Preawareness that something isn't right.
- 2) Awareness of that which is specifically not right.
- 3) Working toward an identified goal through conscious behavior changes.
- 4) Maintaining the behavior.

TYPES OF INTERVENTIONS: USING EVIDENCE BASED PRACTICES

Relational – Builds trust based on consistency in developing the relationship.

Behavioral – Focuses solely on behaviors rather than emotional, mental health imperatives, i.e. monitoring substance abuse behaviors by drug testing, etc.

Cognitive-Behavioral – Focuses on thought processes and thinking errors; not recommended for females unless within a strong, relational context.

Mentoring – Appropriate, trained, adult mentors form relationships with youth to provide guidance and supportive role models for youth; some research indicates consistent mentoring programs, especially with females, may impact the neurotransmitters in the brain and repair attachment disorders.

Support Groups – Groups of youth who are facilitated and structured to provide peer support on general or specific topic issues causing difficulty in youth's life.

Psycho-Educational Groups – Supportive, educational, and facilitated/structured groups that address specific needs of youth, i.e. retail fraud/decision-making group.

Female-Specific, Psycho-Educational Groups – Supportive, educational, time-limited, process/activity-based and facilitated/structured groups that address one or all of the six developmental domains (intellectual, emotional, relational/familial, spiritual, sexual, and physical) utilizing female-specific principles as identified by the National Institute on Crime.

Additional Interventions

Information and Referral – Specific need-driven information and referral services within the community to assist in addressing an identified need.

Contracts – May be behavioral, “no self-harming for self-mutilators,” etc. Contracts are used to obtain compliance in preventing further inappropriate or life-threatening behaviors.

Female Responsive Services Principles

The National Institute of Corrections (NIC) has researched the needs for girls within the justice system and has identified essential areas, which need to be addressed in order to adequately treat girls.

Female-Responsive Programming

The following is a synopsis of NICs value statement regarding female-responsive programming:

- Services for females are designed to be inclusive of race, ethnicity, class, sexual orientation, and individual life experience simultaneously.
- Services for females are designed to be relational and seek to support the development of healthy relationships.
- Services for females are designed to be restorative in that girls need to not only make amends to those they have harmed, but also, need to address the root cause of their behavior, which may be grounded in their own victimization.
- Services that seek to restore relationships.
- Services for females are designed to assist girls in paying attention to societal influences through teaching them critical thought.
- Services for females are designed to be multileveled reflecting their place in the community, nationally, and on a global basis.
- Services must also be holistic and sustainable over time.

Education/Schools

Local schools have a wealth of resources that assist students with mental health issues. Some of the key personnel involved in this are as follows:

Classroom Teacher – May refer child for special education testing or make recommendations to parents and school for special mental health assistance.

Special Education Teacher – Teaches children who qualify for special education, but also may refer child for additional, supportive treatment resources.

School Psychologist – Typically tests children for special education determination and assessment.

Counselor/Social worker – Provides oversight and some limited counseling services to special education certified student, parent(s), and consultation with teacher(s).

Special Education Director – Provides oversight to special education programs within the school and monitors compliance with special education law.

Assistant Principal/Principal/Administration – May refer student for special education testing based on observed behaviors and need; may assist in the provision of structure for student and relational issues.

Local Intermediate School District (ISD)--Play a vital role in addressing mental health issues within the student population through offering special education programming and staff. The ISD offers specialized schooling for handicapped or developmentally challenged children in addition to a variety of special education trainings. Social workers, interventionists, and special education staff are available in most ISD locations. Universities offer a variety of resources as well, through research, libraries, student manpower, educational staff, etc.

Courts

Some family divisions of the circuit courts offer treatment programs.

Agencies

Several nonprofit agencies offer mental health services within local communities. It is important to become familiar with resources in your area.

Publications/Newsletters

The following entities publish mental health reference manuals:

Civic Research Institute, Inc., 4478 Route 27, P.O. Box 585, Kingston, N.J. 08528

American Psychiatric Association, 1400 K Street, N.W., Washington, DC 20005
Diagnostic and Statistical Manual of Mental Disorders (DSM-V)

Dads and Daughters, 34 E. Superior Street, Ste. 200, Duluth, MN 55802
Daughters Newsletter

Websites

American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (DSM-V): <http://www.dsm5.org/Pages/Default.aspx>

Autism Speaks:

http://www.autismspeaks.org/?utm_source=autismspeaks.org&utm_medium=web&utm_campaign=primarymenu

The National Center on Education, Disability, and Juvenile Justice, University of Maryland: <http://www.edjj.org>

National Institute of Mental Health: <http://www.nimh.nih.gov/index.shtml>

Substance Abuse and Mental Health Services Administration:
<http://www.samhsa.gov/>

Interagency Working Group on Youth Programs (IWGYP):
<http://www.findyouthinfo.gov/youth-topics/youth-mental-health>

Questions for Review:

What are the types of disorders you are likely to encounter in children who come within the jurisdiction of the court?

What are the characteristics of these various disorders?

How can you identify whether a youth may have such a disorder?

What are some treatment modalities for mental health disorders?

Where can you find resources that discuss mental health disorders?



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